SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 826.

JACKSON W. GILES, PLAINTIFF IN ERROR,

vs.

CHARLES B. TEARLEY, WILLIAM A. SUMTER, Jr., AND E. JEFF HARRIS, AS THE BOARD OF REGISTRARS OF MONTGOMERY COUNTY, ALABAMA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ALABAMA.

FILED JUNE 20, 1902.

(16,969.)

27494

(18,989.)

# SUPREME COURT OF THE UNITED STATES.

## OCTOBER TERM, 1903.

No. 338.

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JACKSON W. GILES, PLAINTIFF IN ERROR,

*vs.*

CHARLES B. TEASLEY, WILLIAM A. GUNTER, JR., AND E. JEFF HARRIS, AS THE BOARD OF REGISTRARS OF MONTGOMERY COUNTY, ALABAMA.

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IN ERROR TO THE SUPREME COURT OF THE STATE OF ALABAMA.

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(Supreme Court of Alabama. Filed Dec. 9, 1902. Rob't F. Ligon, Jr., Clerk.)

(*Mandamus—Preferred.*)

JACKSON W. GILES
*vs.*
CHAS. B. TEASLEY ET AL., Board of Registrars, &c.

Appeal from Montgomery city court.

Dec. 15, 1902.—Submitted on briefs.
Feb. 28, 1903.—Affirmed. Tyson, J.

1 STATE OF ALABAMA,
*Montgomery County.*

Be it remembered that at a term of the city court of Montgomery, begun and holden for said county at the court house in the city of Montgomery, State and county aforesaid, on the 2nd Monday in October in the year of our Lord one thousand nine hundred and two, it being the 13th day of said month.

Present: The Hon. A. D. Sayre, judge presiding.

The following proceedings were had, and the following judgments were rendered to-wit:

STATE OF ALABAMA,
*County of Montgomery.*

JACKSON W. GILES
*vs.*
CHAS. B. TEASLEY, WM. A. GUNTER, JR., and E. JEFF HARRIS, Board of Registrars of Montgomery County, Alabama.

To the Honorable A. D. Sayre, judge of the city court of Montgomery:

The petition of Jackson W. Giles of the county of Montgomery, respectfully showeth to the court that he is a male citizen of the United States of African descent and black complexion known as a negro, and was born in the State of Alabama, and is over twenty-one years old; that for a number of years prior to the filing of this petition he has exercised all the rights and enjoyed all the privileges of a citizen of the State of Alabama and especially the right to register as an elector and to vote at the State and National elections in

2 the State of Alabama; that he has resided in the State of Alabama more than thirty years and in the county of Montgomery more than thirty years, and has paid before the first of February, 1902, all his poll taxes due for the year 1901, and is not disqualified under section 182 of the new constitution of Alabama which went into effect Nov'r 28, 1901, and that he is a person of good character and understands the duties and obligations of citizenship under a republican form of government.

Petitioner says that on the 13th day of March, 1902, while the said board of registrars were in session engaged in the registration of the voters and electors of Montgomery county at the court house in the city of Montgomery that he, petitioner, made application in due form to be registered as a voter or elector in said county and precinct and State of Alabama, and complied with all the reasonable requirements of said board of registrars, in order that they might enroll his name as an elector so that he might exercise the right of franchise in the coming election of the State of Alabama to take place on the — day of November, 1902, but that said board of registrars arbitrarily and without authority of law and without any justification or excuse, denied and refused petitioner the right to be registered as an elector under the constitution of Alabama, solely on the ground of his race and color, and notwithstanding the fact that petitioner was, and is entitled to be registered, and had then and now has all the requisite qualifications under the constitution and laws of the State of Alabama, and said board refused to enter his name on the registration books as a qualified elector, and denied him the rights and privileges of a citizen and elector under the constitution and laws of the State of Alabama, although there was no challenge offered against petitioner's application and no charges of disqualification or denial whatever made by any person to said board against the rights and the claims of petitioner to be registered as a qualified elector as aforesaid, and not only was he refused registration, but that large numbers of his race and color were also refused

3 registration at the time by said board, solely on the ground of their race and color, although possessing all the necessary qualifications under the law.

Petitioner further says that while he was refused registration as aforesaid, and large numbers of his race similarly situated and qualified as himself, were also refused registration by said board of registrars, solely on the ground of their race and color, that said registrars registered and enrolled all white persons applying for registration without a single denial or question as to their right or qualification.

And petitioner charges and says that such denial of registration to him and his race as aforesaid, was a denial by the State of Alabama to him and his race the equal protection of the law, and was a denial by the State of Alabama of their right to vote in said State, solely on account of their race and color and previous condition of servitude, and was a violation of their rights guaranteed under the

first sections of the 14th and 15th amendments to the Constitution of the United States.

Petitioner further shows to the court that the State of Alabama through its proper officers, designing and intending to abridge the privileges and immunities of petitioner and his race who were citizens and electors under the laws of Alabama and of the United States at the time, and intended and designed to discriminate against and proscribe petitioner and his race who were citizens and electors of Alabama at the time, and intending and designing to deny to petitioner and members of his race similarly situated and qualified as himself the same protection of the laws given to white citizens, and at the same time particularly intending and designing to abridge and deny petitioner and all the members of his race in Alabama similarly situated and qualified as himself the right to vote, solely on account of their race, color and previous condition of servitude, called a constitutional convention at Montgomery on the 21st day of May, 1901, which enacted and adopted a constitution on or about September 3rd, 1901, and which went into effect Nov'r 28th, 1901, known as the new constitution of Alabama under and by virtue of which the said registrars are operating, and by
4 virtue of the provisions of which said registrars claimed the right and authority to refuse and deny registration to petitioner and his race.

That the provisions of sections 180, 181, 183, 184, 185, 186, 187 and 188 of "article 8" of said new constitution of Alabama, were enacted, designed and intended by said State of Alabama, acting through the delegates to said constitutional convention, to abridge the privileges and immunities of petitioner as a citizen of the United States and of the members of his race, and were intended, designed and enacted to discriminate against and proscribe petitioner and his race, and to deny to them the same equal rights and protection of the laws enjoyed by white men in said State, and was especially intended and designed to deny and abridge the right of petitioner and his race to vote, solely on account of their race, color and previous condition of servitude, and guaranteed to them by the provisions of the 14th and 15th amendments to the Constitution of the United States, and that said constitutional convention was composed exclusively of members of the white race, while the relative population of the State of Alabama as to the white and colored races shown by the United States census report for 1900 is 1,001,152 whites, and 827,545 colored.

The said census report further shows that the colored people outnumber the whites in the following counties of Alabama, to-wit:

| | | | | | |
|---|---|---|---|---|---|
| Autauga | county, whites | 6,722 | colored | 11,173. |
| Barbour | " " | 12,781 | " | 22,371. |
| Bullock | " " | 5,846 | " | 26,098. |
| Butler | " " | 12,494 | " | 13,247. |
| Chambers | " " | 15,139 | " | 17,415. |
| Choctaw | " " | 7,854 | " | 11,278. |
| Clarke | " " | 11,952 | " | 15,838. |

| | | | | | |
|---|---|---|---|---|---|
| Dallas | county, | whites | 9,285 | colored | 45,372. |
| Greene | " | " | 3,307 | " | 20,875. |
| Hale | " | " | 5,664 | " | 25,347. |
| Lowndes | " | " | 4,764 | " | 30,889. |
| Macon | county, | whites | 4,252 | colored | 18,874. |
| Marengo | " | " | 8,841 | " | 29,474. |
| Monroe | " | " | 10,529 | " | 13,137. |
| Montgomery | " | " | 19,825 | " | 52,222. |
| Perry | " | " | 6,821 | " | 24,962. |
| Pickens | " | " | 10,481 | " | 13,921. |
| Russell | " | " | 5,930 | " | 21,153. |
| Sumter | " | " | 5,672 | " | 27,038. |
| Talladega | " | " | 17,547 | " | 18,226. |
| Wilcox | " | " | 6,979 | " | 28,652. |

In verification of the above figures, petitioner files herewith, page 3, table 4, No. 66 of the Census Bulletin of the 12th Census of the United States, which he prays to be made a part of this petition.

Petitioner says that section 180 of "article 8" of the constitution of Alabama adopted for the purpose and with the design heretofore stated, is obnoxious and repugnant to the 14th and 15th amendments to the Constitution of the United States in that it divides the inhabitants of the said State into classes to-wit:—First, a soldier class; second, the descendants of soldiers, and third, a class not soldiers nor their descendants.

The class not soldiers nor their descendants are placed under greater restrictions by said section, and have greater burdens placed upon them than are required of the soldier class, or the class descended from soldiers. And that subdivision 3 of section 180 is itself repugnant to said amendments and is unreasonable and void because too loose and general in not defining what kind of good character a citizen must have, and what duties and obligations a citizen must understand under a republican form of government; and, because it leaves too wide and general a discretion to the registrars in charge of the registration of electors, and is equivalent to investing them with arbitrary power.

6 And, because sub-divisions 1 and 2 of said section do not contain a statement of qualifications which are applicable to and attainable by all alike, regardless of race, color and previous condition, but discriminates against the negroes of Alabama on account of their race, color and previous condition.

Petitioner says and charges that the said section 180 of "article 8" of said constitution was enacted, adopted and designed, solely for the purpose and with the intention of denying to petitioner and all of the members of his race in the State of Alabama the right to vote, and was artfully constructed to avoid and evade the provisions of the 14th and 15th amendments to the Constitution of the United States, so that white men alone could be registered and become qualified as electors in the State of Alabama, under the semblance of law.

Petitioner further says that section 181 of said "article 8" of

said new constitution of Alabama is repugnant to the 14th and 15th amendments to the Constitution of the United States; that while said section pretends to prescribe the qualifications of persons who shall apply for registration after the 1st day of January, 1903, it was nevertheless intended, designed and enacted especially to apply to the petitioner and to all the members of his race in the State of Alabama, and was not intended to operate against and affect the white citizens of Alabama, and that by refusing to register petitioner and the members of his race all over the State of Alabama, similarly situated and qualified, which petitioner charges is being done by the board of registrars in all the counties of Alabama, while under the same circumstances and possessing the same qualifications all white men are registered without objection; said registrars and the State of Alabama thereby purpose and intend to force petitioner and the members of his race, to wait until 1903 before they can be allowed registration when the provisions of section 181 will be in operation and petitioner and his race will be required to have qualifications greater and different than those now imposed upon white men in the State of Alabama. And, that said section
7 181 was also an artful attempt and *and* scheme on the part of the State of Alabama to evade the provisions of the 14th and 15th amendments to the Constitution of the United States, and to deny to petitioner and members of his race the equal protection of the laws, and to deny and abridge their right to vote, solely on the ground of their race, color and previous condition of servitude.

For the same reasons heretofore expressed with reference to sections 180 and 181 of "article 8" of the new constitution of Alabama petitioner says that sections 183, 184 and 185 are equally inimical and repugnant to his rights and the rights of his race guaranteed under the 14th and 15th amendments to the Constitution of the United States.

Petitioner further says that section 186 of article 8 of the new constitution of Alabama is repugnant to the 14th and 15th amendments to the Constitution of the United States in this: that said board of registrars, composed entirely of partisan white men, appointed by the State of Alabama under the provisions of the constitution adopted and designed for the purpose of disfranchising petitioner and the members of his race, were made a quasi court with discretionary and absolute power to grant or deny without reason or cause, the application of petitioner and his race, no matter what their qualifications, and their right of appeal from the decision of said board of registrars is given to the circuit court, thence to the Supreme Court, but petitioner says, that such discretionary power and right of appeal, were not given to secure to him and his race the registration which has been denied them, but were given in order to place said board of registrars beyond the power and control of this court by the speedy and summary process of mandamus and for the purpose of more effectually hindering, denying and abridging petitioner's rights to vote and the rights of his race to vote in the State of Alabama, solely on account of race and color and pre-

vious condition of servitude. And because all negroes are excluded
8 from serving on any juries in the trial courts of Alabama on account of their race and color, although otherwise qualified for such service, and have been so excluded for a great many years; and that he and his race would encounter the same race prejudice, and would obtain the same results on appeal as upon application to the board of registrars.

Petitioner says that it would be impossible for the courts of Alabama, as at present constituted, to hear and determine the cases of the thousands of negroes refused registration in the State of Alabama, before the election of November, 1902, but says it would take many years. That said section also is a skillful and artful scheme on the part of the State of Alabama to evade the provisions of the 14th and 15th amendments to the Constitution of the United States in depriving the petitioner and the members of his race in the State of Alabama of the equal protection of the laws and of their right to vote solely on account of their race, color and previous condition of servitude, under the semblance and form of law, and for the same reasons given as to article 186 petitioner claims that section- 187 and 188 of "article 8" of the new constitution of Alabama are equally repugnant to the provisions of the 14th and 15th amendments to the Constitution of the United States.

For the purpose of showing the intention and design of the State of Alabama in enacting and adopting the sections of article 8 of the constitution above referred to, and to show that said sections were adopted for the purpose of disfranchising petitioner and his race in the State of Alabama, he begs leave to file as an exhibit the speeches and debates on said section, at the time of their adoption in the constitutional convention of Alabama, which speeches and debates are filed herewith and marked "Exhibit A" and prayed to be made a part of this petition.

Petitioner further shows to the court that the State of Alabama, with the intention and design as heretofore shown by the adoption of sections 180, 181, 183, 184, 185, 186, 187 and 188 of article 8 of its new constitution, has under and by virtue of the same appointed through its proper officers a board of registrars in every county in
9 the State of Alabama, who alone are charged with the duty of registering the qualified electors in order that they may vote at the coming elections in 1902 for State and Federal office-s; and that all persons not registered are disqualified for voting at the coming election, and after the 1st day of January, 1903, all persons applying to be registered, are made subject to an educational and property qualification test.

And, petitioner shows to the court that said defendant board in Montgomery county, and all the other boards of registrars throughout the State, charged with the registration of the electors of the State as aforesaid under the above enumerated sections of the new constitution of Alabama have refused to register and continue to refuse to register all persons of African descent known as negroes, solely on account of their race, color and previous condition of servi-

tude, except in a few instances when it happened to please the arbitrary will of the said registrars, so that the great majority of the colored men of the State of Alabama numbering no less than 75,000 persons, are not registered and are refused registration by said board of registrars throughout the State, solely because of their race and color and previous condition of servitude, although possessing all the necessary qualifications for electors under section 180 of the new constitution; while the white men of the State of Alabama are permitted to register without let or hindrance, although similarly situated and qualifed as the colored men; and this petitioner charges to be a denial to him and his race the equal protection of the law by the State of Alabama and a denial and abridgement by said State of their right to vote because of their race and color, guaranteed by the 14th and 15th amendments to the Constitution of the United States.

In order to show that the above enumerated sections of article 8 of the new constitution of Alabama are administered by the officers of said State with a view to deprive petitioner and the members of his race similarly situated and qualified, of their rights guaranteed by the 14th and 15th amendments to the Constitution of the United States, petitioner begs leave to file herewith, affidavits of persons who have been denied registration in the various counties of Alabama, solely on the grounds of their race, color and previous condition of servitude, and affidavits showing that the great majority of the colored people throughout the State of Alabama have been denied registration by the various boards solely on the grounds of their race and color and previous condition of servitude although otherwise qualified to register, which affidavits are filed herewith and marked as "Exhibits 1, 2, 3, &c. in numerical order and prayed to be made a part of this petition.

Petitioner further shows to the court, that he deems the right to be registered as an elector of the State of Alabama and the right to vote in the coming elections of November 1902 in the State of Alabama, when great questions and material interests will come up before the people of the State of Alabama for review and settlement at the polls, to be of inestimable value to him and his race, and especially since after the 1st day of January 1903, he and his race who have been denied on account of their previous condition of servitude the same advantages of acquiring property and education as white men enjoyed prior to the late civil war, will be subjected to an educational and property qualification test.

And, petitioner says that he has no other adequate and sufficient remedy by which to obtain the interposition of this court in order to vindicate and secure to himself and his race the sacred rights that have been denied them, except the most gracious writ of mandamus.

Wherefore the petitioner prays this honorable court to declare sections 180, 181, 183, 184, 185, 186, 187 and 188 of article 8 of the new constitution of Alabama which went into effect Nov'r 28th, 1901, to be absolutely null and void, and to be of no effect, because obnoxious and repugnant to the 1st section of the 14th

amendment to the Constitution of the United States, and because obnoxious and repugnant to the 1st section of the 15th amendment to the Constitution of the United States as hereinbefore set forth, not only because said sections in themselves
11 discriminate between the citizens of the State of Alabama and invest the board of registrars with an unreasonable discretion and arbitrary power, and were enacted and adopted for the purpose and intent of denying to petitioner and his race the equal protection of the laws of Alabama, and with the purpose and intent of denying and abridging petitioner's right to vote, and the right of his race to vote in the State of Alabama, on account of their race and color and previous condition of servitude guaranteed under the 14th and 15th amendments to the Constitution of the United States, but*
and because the defendant board of registrars and every other board of registrars in every county in Alabama who are charged with the administration of said sections under said constitution, and acting under and by virtue of the same, have refused to register the great majority of the negro citizens of the State of Alabama, estimated to be no less than 75,000, who were qualified under the law, for no other reason than their race and color and previous condition of servitude, while white men with the same qualifications and situations were registered by said boards as hereinbefore set forth, which acts on the part of said boards is a denial by the State of Alabama to petitioner and his race, the equal protection of the laws, and a denial to him and his race by the State of Alabama of their right to vote, because of their race and color, guaranteed by the 14th and 15th amendments to the Constitution of the United States, and prays the court to issue an alternative writ of mandamus to said defendant board of registrars, commanding them to register as qualified electors of the State of Alabama, upon the books provided therefor, the name of petitioner and to issue to him a certificate of the fact and all other qualified members of his race under the constitution and laws of the State of Alabama existing prior to the adoption of said sections 180, 181, 183, 184, 185, 186, 187, and 188 of article 8 of the new constitution of Alabama, notwithstanding and in disregard of the provisions of said sections, and further commanding said board of registrars that they shall not refuse
12 to register petitioner or the members of his race on account of their race and color; or that they show cause before this honorable court at an early day to be named in said writ, if they can, why they shall not be compelled to register petitioner and his race as herein prayed for and that the alternative writ of mandamus should not be made peremptory.

JACKSON W. GILES,
*Appearing for Himself and by*
WILFORD H. SMITH,
*Att'y for Petitioner, a Member of the Bar of the State of Mississippi, Appearing by Special Permission of the Court in this Case.*

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[* In pencil in copy.]

STATE OF ALABAMA,
*Montgomery County.*

Before me personally appeared Jackson W. Giles the petitioner in the above application for mandamus, who being sworn makes affidavit, that the matter- and things set forth in said application are true, except those matters stated on information and belief, and as to those matters he verily believes them to be true.

JACKSON W. GILES.

Sworn to and subscribed before me this 1st day of July, 1902.

J. A. ELMORE,
[SEAL.] *U. S. Comm'r.*

EXHIBIT "A."

*Speech of Acceptance of Hon. John B. Knox in Accepting the Presidency of the Constitutional Convention.*

GENTLEMEN OF THE CONVENTION:

I thank you for the honor you have conferred in elevating me to preside over the deliberations of this convention. Viewed from the standpoint of my profession, to which, up to this moment, my life's work has been devoted, it is a great honor indeed; for I know
13 of no high- honor that can be conferred upon a lawyer than to be made president of the constitutional convention, which represents the sovereignty of his people, and numbers among its delegates, in large part the intellect and talent of the State—those who have in the past and who will in the future exert a potent influence in shaping and directing the affairs of the State.

In my judgment, the people of Alabama have been called upon to face no more important situation than now confronts us, unless it be when they, in 1861, stirred by the momentous issues of impending conflict between the North and South, were forced to decide whether they would remain in or withdraw from the Union.

Then, as now, the negro was the prominent factor in the issue.

The Southern people, with this grave problem of the races to deal with, are face to face with a new epoch in constitution making, the difficulties of which, if solved wisely, may bring rest and peace and happiness, if otherwise, it may leave us and our posterity continuously involved in race conflicts, or, what may be worse, subjected permanently to the baleful influences of the political conditions now prevailing in the State.

So long as the negro remains in insignificant minority, and votes the Republican ticket, our friends in the North tolerate him with complacency, but there is not a Northern State, and I might go further and say there is not an intelligent white man in the North, not

gangrened by sectional prejudice and hatred of the South, who would consent for a single day to submit to negro rule.

If the negroes of the South should move in such numbers to the State of Massachusetts, or any other Northern State, as would enable them to elect the officers, levy the taxes and control the government and policy of that State, I doubt not they would be met, in the spirit, as the negro laborers from the South were met in the State of Illinois, with bayonets, led by a Republican governor, but firmly but emphatically informed, that no quarter would be shown them in that territory.

One has studied the history of recent events to very little purpose who has failed to discover that race prejudice exists at the
14 North in as pronounced a form as at the South, and that the question of negro domination when brought home, will arouse the same opposition in either section.

And what is it that we do want to do? Why, it is, within the limits imposed by the Federal Constitution, to establish white supremacy in this State.

This is our problem, and we should be permitted to deal with it unobstructed by outside influences, with a sense of our responsibilities as citizens, and our duty to posterity. The southern man knows the negro, and the negro knows him. The only conflict which has, or is ever likely to arise, springs from the efforts of ill-advised friends at the North, to confer upon him without previous training or preparation, places of power and responsibility, for which he is wholly unfitted, either by capacity or experience.

But if we would have white supremacy, we must establish it by law—not by force or fraud. If you teach your boy it is right to buy a vote, it is an easy step for him to learn to use money to bribe or corrupt officials or trustees of any class. If you teach your boy that it is right to steal votes, it is an easy step for him to believe that it is right to steal whatever he may need or greatly desire. The results of such an influence will enter every branch of society; it will reach your bank cashiers, and affect positions of trust in every department; it will ultimately enter your courts, and affect the administration of justice.

The justification for whatever manipulation of the ballot that has occurred in this State has been the menace of negro domination. After the war, by force of Federal bayonets, the negro was placed in control of every branch of our government. Inspired and aided by unscrupulous white men, he wasted money, created debts, increased taxes until it threatened to amount to confiscation of our property. While in power and within a few years, he increased our State debt from a nominal figure to nearly thirty millions of dollars. The right of revolution is always left to every people. Being prostrated by the effects of war, and unable to take up arms in
15 their own defence in some portions of this State, white men greatly in the minority, it is said, resorted to stratagem—used their great intellect to overcome the greater numbers of their black opponents. If so such a course might be warranted when

considered as the right of revolution, and as an act of necessity for self preservation. But a people cannot always live in a state of revolution. The time comes when, if they would be a free, happy and contented people, they must return to a constitutional form of government, where law and order prevail and where every citizen stands ready to stake his life and his honor to maintain it.

It has been urged in some quarters as a reason why this movement for a new constitution should be defeated that we propose to adopt a suffrage plank which will offer to the negro an incentive to obtain an education, while the child of the white man will be without a like stimulant because protected in his right to vote, without regard to the density of his ignorance.

I do not understand that any delegate to this convention is pledged to any such legislation. We are pledged not to deprive any white man of the right to vote, but this does not extend unless the convention chooses to extend it, beyond the life of voters now living.

EXHIBIT A.

*Official Report of the Proceedings of the Constitutional Convention of Alabama.*

Fifty-second day.

MONTGOMERY, ALA., TUESDAY, *July* 23, 1901.

The convention met pursuant to adjournment, was called to order by the president, and opened with prayer by Rev. Dr. A. L. Andrews.

Mr. SMITH (Mobile): I am instructed by the rules committee to offer the following resolution:

The clerk read the resolution as follows:

Resolved that the article reported by the committee on
16 suffrage and elections be considered, adopted or rejected section by section, and after every section has been so considered and adopted substitutes for the entire article may be offered and acted upon without any motion to reconsider the prior action of the convention.

Mr. SMITH (Mobile): I move the adoption of the resolution as reported by the rules committee.

Upon a vote being taken the resolution was adopted.

Mr. COLEMAN (Greene): Mr. President, and gentlemen of the convention: It is not my purpose to undertake to make a strictly legal argument at this time upon the various provisions contained in the report of the committee on suffrage and elections, but rather to state the conditions which confront us, the circumstances which led to the calling of this convention, and the way in our opinion to relieve the people of the State of Alabama from the great burden that now rests upon it. I think it pertinent in this connection, in order

that our conditions may be understood, not only at home but abroad, to review, by a statement of facts, which transpired many years ago, that the people who were disposed to criticise us in our conduct may better understand what we passed through and the end which we aimed to attain. That this convention was called by the Democratic party cannot be denied, and that it was made a party measure and as such sustained by the party. The duty rests with us to construct an organic law which will operate fairly and justly to every inhabitant in the State without regard to party or previous condition I do not believe that the article prepared is properly understood. There has been an effort made to impress the people of Alabama that the delegates to this convention were under no obligations or pledges to the people of Alabama. It should be remembered that the three conventions of Alabama which last assembled as a convention of the Democratic party, declared that no white man should be disfranchised except for crime. Mr. President and gentlemen of the convention, it has been said that this provision was hastily adopted, without deliberation. I cannot
17 conceive how three conventions, successive conventions, could unanimously adopt the same provision without having attention called to it, this provision, or the charge made that action was without due consideration. It may not be improper to state here that the platform adopted by the convention which last assembled in Montgomery was not framed without consideration and deliberation. Present at that time were two members, one a member of Congress, and an ex-member, a distinguished editor of a leading paper in this State, and leading delegates from various sections of the State. It may not be improper to state here that the chairman of the committee instead of writing the word "white man" wrote the words "qualified voter" in order to obviate some of the difficulties and troubles which seemed to have arisen since that time, and it was after due consideration, due deliberation, that the committee on platform inserted the words "white man." Those are the facts in regard to the preparation of the platform which was presented to the convention. In addition to that, Mr. President, at a time when it seemed that the calling of this convention was in danger, hanging adoption and rejection, the chairman of the campaign committee issued a circular to every member and they met in pursuance to that call in Birmingham, and in order that the people of the State might be assured thereof without dissenting voice pledged themselves to stand by the pledges made to the people in convention assembled and it was, I have no doubt, that assurance which succeeded in calling together the convention as now assembled. Under these circumstances, Mr. President and gentlemen of the convention, I cannot see myself, how any man can claim exemption from these obligations, except he be convinced in his own mind that to stand by them would involve his honor under the oath he has taken to support the Constitution of the United States. I would ask no man to violate his oath, but if he can comply with the oath that he has taken, and perform his pledges to the people of Alabama,

I see no escape from the pledges and at the same time not violate our oaths, it seems to *be* it is our bounden duty to do so. Mr. President and delegates of the convention, this Government
18 was founded by white people. Its institutions have been preserved and enforced by the white race of this country, and it is within the past few years that the negro became a qualified voter and citizen of the United States. In most of the States of this Union the proportion of such voters is so small that their influence is not felt in the general election. It is only in the Southern States that he has become an important factor, and under the present laws is a menace to our civilization, our happiness and prosperity. I would not violate any provision of the Constitution, but it is my opinion that we should go to the utmost limit allowed us to continue in control of this State and its political interests, that race of people which so long has preserved its institutions and brought us through so much trouble, to our present prosperous condition. (Applause.) I hope the convention will bear with me as I proceed to show that this conclusion is not reached by any prejudice against the negro. There are but few, comparatively, of the old slave holders who are alive at this time, and who are present in these deliberations. Mr. President, I am not ashamed to say that I was among those few. Not only myself, but my ancestors before me were slave owners in this State. The third generation back was one who in his fe-ble way undertook and put at stake his life in order to give validity to the Declaration of Independence, and which resulted in the framing of the Constitution of the United States. Protected in his rights, as others were, no man read in the history of his country, will undertake to say that without such provisions the Constitution of the United States would ever have been adopted. We feel sure, and so do they, that they had a right to regard these persons as property, and that it was secured by the organic law of the country. So far as the moral question arises, I am one of those old fogy men who believe in the inspiration of the Scriptures and we are told that Abraham was a friend of God, and Moses was an inspired lawgiver, and until some higher authority than the Creator and omnicient God himself shall arise and declare a different code of morals, I am one prepared to stand justified by the records
19 of that book. Now, Mr. President and gentlemen of this convention, bear with me a few moments. Born on a plantation, raised up with the negro, I have had an opportunity to know his weak points and his good traits. Mine may have been the history of others, but I remember well during the civil war, or the war between the States, sending my negro man from Vicksburg, surrounded as it was with Federal troops, with a letter to my wife, and he carried it safely home, and I never doubted that he would do so. I wish to say in behalf of this race that at the battle of Missionary ridge, when I had the misfortune to be shot down, he was inside the Federal lines for two or three days, and he worked himself out, and found me in the hospital, and waited upon me for three months, and accompanied me home. I wish to say, moreover, for these peo-

ple that upon my plantation for the greater part of the time, there was no white man, but a negro was in command as superintendent, and my wife and children apprehended no trouble or danger whatever from our slaves. He was as loyal as a man could be. This is the history of the negro as a slave. In the year 1865, the year that emancipation became effective, I had the fortune to be elected solicitor of the fifty district, including the counties of Greene, Marengo, Sumter, Pickens, Choctaw, where the negro was most numerous, or perhaps as numerous as any counties in the State in proportion to the population. As solicitor at that time I had every opportunity to judge him and his characteristics, and I venture to say that during that time we heard not of a single case of assault upon our fair women, or of murder, way-laying, or other violations of the law by them of an aggravated character, except that of theft which was then characteristic of the race. That was his attitude from the year 1869 to the days of reconstruction. At that time the carpet-bagger arose, and the scallywag in this country, and I do not wish to be understood as saying that all of those who came from the North, and designated as carpet-baggers, were bad men, but the majority of them who came here, came not for a good purpose. Then we had the midnight meetings. Thousands would gather upon the word sent; inflammatory speeches were made to them, and this peaceful race, within a short time, had developed the character of savages. The race which had been quiet so long converted this whole country into pandemonium. I have seen with my own eyes, a thousand of them around the ballot box and not a white man was permitted to reach the ballot box. I have known, delegates of this convention, one thousand five hundred armed negroes, to enter a little village on one occasion, for the purpose of creating consternation and fear among the whites. I have known a judge trying a case, and a Republican judge at that, and under the testimony came to the conclusion that the defendant should be held or committed for trial. I have known these defendants to rise from their seats and deliberately shoot the judge through the head, scattering his brains upon the floor. I know*n*, and the parties are living now, who, dressed in Federal uniforms, met by appointment known leaders of the negroes and they declared that they were ready to arise with the axe and the torch and burn and slay men, women and children. I have been told by a delegate upon this floor that he knew of a negro boy sixteen years of age who voted sixteen times, once for every year of his age, and defied arrest or investigation under the laws passed in reconstruction days when that race was in power. We know that our State was pillaged, our counties strangulated, and the main purpose seemed to be that of plunder and destruction. Now I mention these facts for this purpose. Here was a peaceable race of people, obedient in law, and here was pandemonium raised when they were no longer restrained by law, and were inflamed and led. Now what happened at that time?

Mr. GRANT (Calhoun): Will the gentleman allow me to interrupt him? I just want to say——

Mr. PRESIDENT: Does the gentleman yield?

Mr. COLEMAN (Greene): I am discussing the question at this time.

Mr. GRANT (Calhoun): I have a very perfect recollection of all those kind of performances——

Mr. PRESIDENT: The gentleman will be seated.

Mr. COLEMAN (Greene): At that time and under those cir-
21 cumstances arose the organization that was denominated Ku Klux. This organization was guilty of excesses and *were* not countenanced. It soon disappeared. That was the condition of this country when the people resorted to a more peaceful and effective method securing predominance in this State through the ballot box. I wish the fact of our condition to be known, and while there are those of us alive yet who know these facts, I think they should not be forgotten. Now if the delegates will consider since that time, the white race has predominated in this State, and the people who have voted at all elections, and preserved us, have been the white race, and that without regard to literacy or illiteracy. They have all voted, and they have voted from the first establishment of government in this country down to the present time. Contrast these two periods. See what condition we were in when the negro predominated in this State, and made our laws for us, and enforced them, and see our condition when it passed from them back into the hands of the white men. Can anybody look upon these two pictures and come to any conclusion other than that the negro as a race is incapable of self-government? and has no appreciation of the duties and obligations or a citizen of a republican form of government, or that the white man, by reason of belonging to the white race, or his educ-tion, or some other characteristic, is competent to rule and can be trusted with the State's government with perfect safety.

The facts cannot be denied, and seem to be sufficient to satisfy anybody of the truth of the preamble to the platform of the Democratic party, that the one race is capable of self-government as a race and the other as a race should not be trusted with the right to vote. Now, Mr. President and delegates of the convention, having these matters in view, having our pledges before us, we have tried to frame an article upon suffrage which would preserve our institutions, and we have at the same time tried to comply with the fifteenth amendment of the Constitution, and have admitted to the exercise of suffrage every competent negro in the State. I do not
22 doubt and I have heard no man yet say, that every person of the negro race who ought to vote has not been permitted to vote and the only question that seems to trouble some of our people is whether the white man shall vote and not the negro. That is what confronts us to-day. I think it is our duty as Democrats, and as citizens of this State, to comply with our pledges, and admit to the exercise of the franchise every white voter if it can be done

legally. So far as the details of the plan submitted are concerned, they will come up as we proceed section by section. The committee is not partial to anything they have said or written in the article. We have presented to you that which seemed as the best solution, but if any man has anything better than that which we have presented to you, no one will join in its adoption more readily and satisfactorily than myself. I know full well, delegates of this convention, that during the few years that will be spared to myself, and to men of my age, we will be sure to maintain our supremacy and good government. But we look to conditions that may exist fifteen, twenty or thirty years from now, when the old men will be gone and when the question will be for the younger members of this convention and our children who have not yet arrived at the state of manhood. That is what we are looking out for; that is what we desire to provide for and I shall most sincerely invoke your earnestness and ability in solving this great question, which is now under consideration. We do not believe that it is an insult to confer the franchise upon the descendents of those who wore the grey. It is recorded that Moses of old said to the Children of Israel, "Teach the statutes to your children, as you lie down; teach them as you walk in the way and as you get up;" and we believe that the old Confederate soldier has taught his children to love their country and its laws and government. Mr. President, it is no dishonor to say to Confederate soldier's son, that the State recognizes that you are a better citizen and have a better right to vote than the negro who can read and write. I think it is due him, and I would rather this right hand of mine would become palsied rather than it should write "disfranchised" against one of their names. I would
23 rather my tongue would cleave to the roof of my mouth, before I would pronounce so unjust a sentence against him. Those are my sentiments on this question, and I have no doubt, as a lawyer who has investigated the case, that his enfranchisement is perfectly constitutional. Mr. President, I may have been betrayed into saying too much and I will not say any more——

Cries of "Go on, Go on."

Mr. COLEMAN: Now, then, to refer rapidly to another provision. Men who have objected to what might be called the "understanding clause" merely have not apprehended its true meaning. Surely, they have not understood that it embodies the Federal law of the United States with reference to naturalization of foreigners; surely, they have not considered that before that could be declared unconstitutional the courts would have to declare unconstitutional the laws which have been adopted by Congress applicable to the naturalization of foreigners. The thing that troubles me is not what is now to transpire or to transpire within the next few years, but that which comes after that, and whether the permanent requirements are sufficient or not to protect the people in their rights, the civilization of this country, and the happiness of the people in the permanent plan. That prescribes a property qualification, an understanding qualification to read and write, and it also provides for

those who have been regularly engaged in some lawful employment for a year. There never was a sentence or provision, more perverted or less understood, than that provision in the article reported by the committee on suffrage and elections. The committee was at least a day and a half or two days selecting those words, they used the word "engaged" because it had often been interpreted by the supreme court of this State, and it is not, as I have seen in the papers, a provision which requires not only that a man should always be employed but that he should have some profitable employment. There is nothing further from its meaning. We all know that a man is engaged in business when he holds himself out as a party ready for employment. As has often been illustrated in the case of a lawyer—he is engaged in the practice of law
24 whether he has a client or not. A physician is engaged in the practice of medicine if he holds himself out as a physician and is really, that is his business without regard to the number of patrons he may have. The purpose of the qualification was to reach people passing from place to place without employment—tramps, as it were, though not strictly within the definition of the word tramp as defined in the Code of Alabama. I would willingly accept any substitute or amendment which could reach or supply the ends intended by that provision. Mr. President, I believe I will say nothing more at this time, and move that we take up this report section by section in accordance with the rules of this convention.

## Fifty-third day.

MONTGOMERY, ALA., WEDNESDAY, *July* 24, 1901.

The convention met pursuant to adjournment, was called to order by the president, and opened with prayer by Rev. Dr. A. L. Andrews.

Mr. O'NEAL (Lauderdale): Mr. President, the problem which the 14th and 15th amendments to the Federal Constitution forced on the States of the South, was the most momentous ever submitted to a free people. In the language of one of her greatest sons, "It is a problem in solving which the South must stand alone, in dealing with which she must come closer than ambition or despair have driven her, and on the outcome of which her very existence depends. This problem is to carry within her body politic two separate and distinct races, and nearly equal in number. She must carry these races in peace, for discord means ruin. She must carry them separately, for assimilation means debasement. She must carry them in equal justice, for to do this she is pledged in honor and gratitude. She must carry them to the end, for in all human probability she will never be quit of either."

To solve this problem, to remedy the existing evils of an unrestricted and debauched suffrage, and to secure for ourselves and our posterity the benefits of enlightened government, and of
25 pure and lasting freedom was the paramount object of this convention. That was the chief inducement by which the

people's consent to our being here was obtained, and that was the charge and duty with which we were invested and which we would be recreant to our solemn trust did we not perform faithfully and efficiently. Mr. President, realizing these facts, and recognizing their weight, the committee on suffrage approached its task of *ballot* reform, with all its immense and grave responsibilities, with its certain consequences for good or ill, plainly before them, knowing that the very life of the State depended on the wise and permanent solution of this problem. Mr. President, we cannot afford to fail; we must accomplish the redemption of our elections from the incompetency of the electors; from fraud in their management, and make permanent and secure honest and efficient government in Alabama.

No committee ever labored more earnestly, more faithfully, with a more profound sense of the gravity and importance of its work, and we lay before you our completed task which carries out every pledge, which violates no provision of the Federal Constitution, and the adoption of which we sincerely believe will purify our electorate, will remove forever the necessity for methods which can no longer meet our approval and will mark the commencement of an era of better government of more lasting peace and prosperity in Alabama.

Mr. President, the movement for a constitutional convention in this State was but the protest of the people of Alabama against a condition of affairs that had grown intolerable. The right of a sovereign State to regulate and control the suffrage of its citizens was older than the Constitution. Even in colonial times the right to vote had been regulated by the several assemblies and not by Parliament, and was not surrendered when the Federal Union was formed. When, after the close of the civil war, the victorious North, flushed by its triumph, animated by hate and passion, and to humiliate and degrade the South, attempted to strike down this paramount and sovereign right of the States, it undertook to reverse the practice of the country since the foundation of the Federal
26 Government and of even a more remote past. Mr. President, this review of the debates in Congress and the construction by the highest courts of the land, of the objects, purposes and effects of the two amendments to the Constitution, show beyond controversy, that they do not oppose, as many seem to believe, an unsuperable barrier to the disfranchisement of the negro. That there were many supporters of the 15th amendment when it was being framed, who desired to so amend it as to place wholly under the control of the Federal Government all future elections in the States, and to make it impossible for any State to regulate its suffrage, we concede, but the history of that amendment also shows, as we have seen, that many of the States of the North whose Senators and Representatives participated in the preparation of that amendment to the Constitution, contained considerable bodies of negroes little better fitted for the duties of electors than the lately manumitted slaves of the South, and it is only fair to assume that they were unwilling to prescribe a rule of such tyranny and disas-

ter, and that its adoption by the requisite number of States would have been rendered doubtful if such a purpose had found positive and arbitrary expression therein.

Mr. President, as we have seen the first section of the 14th amendment *made all negroes citizens of the United States and of the* States of their residence. The amendment which followed prohibited the denial or abridgement of that vote for three certain specified reasons, or either of them, and for those only. For any other reason their right to vote may be either denied or abridged. You cannot say that because the effect of our plan will be to restrict the right of the negro to vote, that it necessarily violates the terms or spirit of that amendment. For with the same force of reasoning you could say that an educational or property qualification imposed on all alike would result in denying to the great mass of negroes the right to vote, and was therefore unconstitutional. If the effect or result of a law restricting suffrage was to determine its construction it would have been held that the effect of the
27 provisions found in the Mississippi constitution requiring a voter to be able to understand or give an intelligent explanation of the constitution militated against this article of the Federal Constitution. It would have been held that the laws of Massachusetts which impose an educational qualification, of Rhode Island which demanded a property qualification, were in conflict with the 15th amendment. In the one case it could be truthfully said that the whole or greater part of the negro race in those States were disfranchised, because they on account of their poverty or ignorance were unable to vote. Yet, in the debates in Congress, and in every judicial construction of the two amendments, the presence and continual existence of these and other restrictions on suffrage in the laws and constitutions of other American States show that they are not antagonistic to the two amendments, that the question of their violation of the amendments is not determinable and has not been determined in a single instance by the effect or result of the restrictions imposed upon the voting of the negro race.

I therefore assert that the States can impose any restriction that it may see fit on suffrage which is not directed in hostility to the negro race, not imposed on account of his race, color or previous condition of servitude, and will not when tested by enlightened judicial construction be disturbed. If we abridge or deny the negro the right to vote, we take this action not in hostility to him as a race, not on account of his color or previous condition of servitude, but because his exercise of suffrage without restriction make it unsafe to the life of the State and detrimental to all the interests of the people among whom he resides. We can deny the right of suffrage to the native- of other countries, or extend the age of majority from 21 to 30 years, for it has been decided that the 15th amendment was intended to protect the negro race alone. No, Mr. President, we are not in this hour of our State's deadly peril seeking to wreak any vengeance upon the negro or venting any ill will on account of his race or color; but
28 we are restricting our suffrage for the sake of the life of our government, for its honest and faithful administration, for the

sake of our civilization, for public morals, for personal integrity, for the emancipation of all that is good and pure among us from that bondage of the soul and of thought that has been forced to participate in wrong doing for fear of a greater evil. We perform this duty for virtue for decency, for religion, for liberty, for life itself. The enfranchisement of the negro race furnished one of the darkest chapters in the history of this Republic. No king, however despotic, would have subjected his subjects to the peril, the ignominy, the moral and financial ruin which has walked in the train of this unwise experiment. As the editor of the Chicago Chronicle recently said: "The history of the world may be searched in vain for a parallel for the spirit of savagery which inflicted upon a defeated and impoverished people the unspeakably barbarous rule of a servile race just liberated from bondage." As a distinguished English statesman recently wrote: "To nearly all Europeans such a step as the grant of the suffrage to the negroes *en bloc*, seemed then and still seems monstrous."

After over a quarter of a century's experience we know that it is as much a failure to-day as it was the hour it was first inaugurated, hence I but voice the sentiment, not only of the white people of Alabama, but of the intelligent, unbiased judgment of the North, and of the civilized world when I denounce the 15th amendment as not simply a political blunder but a crime—a crime against the white people of the South—a crime against the black people of the South—a crime against local self government, and the sovereign rights of the States, for I am sure the time has come when we can challenge the criticism and the favorable verdict of the civilized world to whom we can show and who have already seen and know that we have tried in humiliation and under protest, but still in patience, the experiment of unlimited suffrage, which heedlessness, animosity and hate put upon us, that we have tasted its bitterness, drained the cup of hatred and empiricism to
29 its dregs, inhaled its poison until the State reeled from its effect and that it has been demonstrated after a third of a century that this investiture of the unqualified element of our population with the sovereign role of suffrage was a costly and a ghastly failure—a crime against us as well as the negro.

In the dark days of reconstruction Thomas A. Hendricks declared in the Congress of the United States that the 15th amendment was a violation of the original compact between the States and changed the nature of our government. It- adoption was secured by force and fraud and in the States of the South its ratification was compelled by military authority. The pretext that it was necessary to secure the results of the war is not sustained by history, for Congress had solemnly declared that the war for the Union was not waged to free the slaves and Abraham Lincoln has said, "I did not at any time say that I was in favor of the negro suffrage. I declared against it. I am not in favor of negro citizenship." This opinion it is said he never changed. The impartial student of history knows that this amendment would never have been proposed had it not

been confidently believed that if adopted it would perpetuate the rule of the Republican party.

Mr. President, the white race must dominate because it is the superior race, and in that domination the negro will find the safest pledge and guarantee of just and impartial administration. We remember with gratitude that during the dark days of the war, when our fathers and brothers were at the front fighting the battles of the Confederacy the negro was left at home, and in many cases the sole protector of the helpless and defenceless women and children of the South. We recall with gratitude the fact that in not a single instance did he betray his trust. He worked in the cotton and corn fields to feed the armies that were fighting to rivet the chains of slavery on his limbs. No higher tribute could be paid to the institution of slavery. While all this is true, while we propose to accord to the negro all his rights in the court, to share with him more than his just proportion of the educational fund, and to accord him that justice which the strong always owe to the weak, we can never consent to share with him the responsibilities of our Government. Mr. President, this is not a sectional issue, the race problem is no longer confined to the States of the South. The acquisition of the Sandwich islands, the Philippines, Porto Rico and the control of Cuba, has forced the race problem to the attention of the whole country, and in the wise solution of this question we have the sympathy instead of the hostility of the North. Mr. President, wherever the white race has come in contact with that inferior race whether in Massachusetts, in Kansas, in California, or Alabama, whether with the Mongolian, the negro or the Indian race, race instinct will assert itself and the white will dominate and control. It has been wisely said that this race instinct is of divine ordination. It should not be decried, derided or denied, because it preserves the integrity and purity of each race. The races of men are the creations of God, the mark of his will. He who attempts to overcome this race instinct is defying a power which is higher and wiser than that of man, and which will in the future as it has in the past preserved the social purity and integrity of each race, preventing that assimilation and debasement the very contemplation of which fills our minds with horror and repugnance. We cannot afford to leave the ballot in the hands of enough negroes to form a respectable faction. For if we do, whenever the whites divide, they hold the balance of power and we have failed to accomplish our mission. Have we grown so careless of the past that we can undergo that danger? Cannot we brothers, kinsmen, inheritors of the glorious past, united as we are by every tie of affection and interest, joint sharers of the blessing of free government transmitted by our fathers, can we not forego our petty bickerings and unite to accomplish this glorious mission? Let us be equal to this great occasion, this glorious opportunity in the life of our State, and put into our constitution an article on suffrage that will guarantee to future generations the blessings of Anglo-Saxon civilization and liberty in

this State. We cannot afford to disfranchise the ignorant
31 or illiterate white. It was the illiterate and uneducated white man that fought the battle of the Confederacy. They and their descendents were educated not in books but in the traditions and principles of free government. The race to whom they belong have been educated for centuries in the practice, participation and conservation of free institutions. The men who won Magna Charta from King John were uneducated and illiterate, and yet in the language of another, they were the men who from merely hereditary aptitude, acquired for generations in the administration of free institutions were enabled to lay their foundations deep and secure in England. The negro on the other hand has no traditions of liberty, no pride of ancestry, no environments which fit him to intelligently discharge the great duties of citizenship. I, for one, can never consent to cast my vote to deprice a single man who wore the gray or his descendents, whether he be learned or illiterate, the right of suffrage. Mr. President, the committee has been fortunate in having as its chairman not only a distinguished lawyer, learned in all the learning of the law, patient and painstaking, but a patriot who has lived in that section of the State where the evil of an unrestricted suffrage has been most severely felt, and who has earnestly labored to present a plan which will carry out every pledge and yet accomplish the mission for which the people have delegated us to assemble in convention.

Mr. OATES: In the time limit fixed, I shall endeavor to say nothing except that which may be considered to some profit, and is absolutely pertinent to the question in hand.

Now, sir, it has frequently been asserted that the primary object in calling this constitutional convention was to completely eliminate the negro from politics or disfranchise the negro. This, gentlemen, is stating the question too narrowly. The primary and broad object was to seek to reclaim our beloved State from that evil into which it had fallen, of dishonest elections. How did we get there, and who is responsible therefor?

32 I am by nature a conservative. I am entitled to no credit for it because I was born that way. I am not radical in anything pertaining to public affairs; never was, and as long as I retain my memory and reasoning powers never will be, and I never will if I know it, be a party to an injustice to anyone—it matters not what may cause the exigency.

Now, sir, we will take the negro. We find — in his native Africa a savage. He is not responsible for his being in America, and in a state of slavery. He is not responsible for his emancipation. He is not responsible for his enfranchisement. He had no agency in any of it and there is not a delegate on this floor who will rise in his place and say that he had, or that he did. Then, how was he enfranchised? You know by whom. By the policy of those who fought us in war and conquered us, the Federal administration. They saw proper, as a part of their policy, towards this conquered people, and this large population who had been emancipated from

slavery by a war that had been urged upon us. As a part of their policy they passed the fourteenth and fifteenth articles of the amendment. The negro, therefore, is not responsible for it. It was the work of the white man. The negro, when informed that he had been emancipated was grateful to those whom he understood had done that work and, gentlemen, whether it was beneficial to him or the reverse this was but the bubbling up of nature. Even the scorned earthworm that you trample upon will turn and sting you, it is only nature. Everything—the birds of the air, the animals and human beings, desire to be free, although in the case of African slavery it has benefitted the negro because it lifted them higher in the sunlight of civilization than anything before. It was a blessing to them, but it was only natural that they should aspire to freedom and welcome it, and when it came, to be grateful to those whom they understood brought it. In a like spirit of gratitude they were grateful to the people whom they understood had enfranchised them. They were much misled and misinformed, and I think with all their misinformation they did remarkably well.

33 Now, when the distinguished delegate, the chairman of this committee, was on yesterday addressing this convention, pointing out the abuses of the elective franchise at the hands of these people, he seemed to charge it altogether to them. I differ with him in reference to that part of our history, by charging it to the carpet-baggers and scalawags with white skins who led it on. I want to place the responsibility where it belongs.

Mr. COLEMAN (Greene): Did the scalawags lead away the white people in that way?

Mr. OATES: They led the negroes and the negroes have always been led by white people. One statement of the chairman, (Mr. Coleman) was, that a negro boy 16 years old had voted 16 times. Gentlemen, I happen to know about that, and the chairman probably got it not directly but indirectly from me.

My law partner with the act of 1868 in his hands, in which the carpet-bag legislature had made it an indictable offense to challenge anybody who offered to vote, with that statute in his hands, carried his office boy 16 years old to the voting place in my town of Abbeville, and voted him one time for every year he was old. He did it to show the infamy of carpet-bag legislation, and not that of negro enfranchisement. Let me say furthermore. I suffered as much from reconstruction, and took as great a part in it personally as anybody else, but that is not material to the consideration of this question. I am making no complaint on that now, though I had a right to complain. I will tell you what I conceive to be true statesmanship, it is to act with conditions definable. We may be indignant about some of our past history. We may feel that what transpired 25 or 30 years ago is irritating, and as I have seen black heads banked around the polling boxes, and I could not get there to vote without swimming through them about 100 yards deep, I felt the sting of it. When a company of Federal troops was sent to my town, I was arrested and put under bond of $10,000. that I would not hurt

any carpet-bagger, because I and one or two more one-armed
34 men like myself, got after one and run him out of the county and I have not any respect for the Ku Klux of that day. They were inefficient, or the negroes would never have been led into the errors they were.

The negroes were enfranchised, and I think wrongfully. I opposed it. It is the only instance in history where the Congress of the United States violated its fundamental laws, and undertook to fix suffrage for the States. They never did it before, and have never done it since. The negroes were enfranchised and they went right on and crowded to the polls, and they were in the hands of carpet-baggers and scallawags and being led by them, brought governmental evils almost untold, and there were but two ways to correct it. One of these was to go to the polls with shot-guns and disperse them. We either had to leave our homes or stop that kind of thing, and if we took guns to the polls somebody would have gotten hurt. The other way was to cheat them, I was an advocate of the latter because it did not take life. Now, I never changed votes with my one hand, but I upheld it and counselled it with those who did. I am just as guilty as those who did. I am about like the parson who lived in my county before any railroads had come to that country, and they hauled cotton in wagons clear to Montgomery, and these black prairie roads were almost impassable. The old parson had a fine 6 mule team loaded with cotton one day, and with his son John to drive started to Montgomery. The roads were awful, and the wagon sunk into the mud and had to be pried out time and again. John was a little wicked and disposed to swear. The old man protested, "Johnny, my son, don't curse that way, that is wicked." After a while the wagon got stuck and he tried to pry it out, and tried to get the mules to pull it out, but it was all without effect, and John says Father if you will just step aside and let me cuss these mules a little while, I believe we can get this wagon out. The old man seeing that everything else had been tried in vain, got out behind the tree and says "Now, Johnny, you may cuss them just a little."

Well, Johnny mounted the saddle mule and popped his whip
35 and hollered: "Hell and twelve, come out of the mire." The mules got down steadily to it, the old man saw the wagon moving, which so delighted him that he cried out, "Thirteen and the devil, cuss them a little more Johnny."

I was no better than Parson Reaves, I told them to go it, boys, count them out. We had to do it. Unfortunately, I say, it was a necessity. We could not help ourselves. We had to do it or do worse. But we have gone on from bad to worse until it has become a great evil. It has gone to the point where the negro found out some time ago, that there was no use for him to vote. White men had gotten to cheating each other until we don't have any honest elections. That is the trouble we have to grapple with. Now, it is said that the right way to grapple with it, is to disfranchise the negro, and according to our platform no white man shall be disfranchised. If no white man is to be disfranchised then there is

nobody to disfranchise but the negro. As we have taken an oath here to support the Constitution of the United States, and if there is nobody to be disfranchised but negroes, and we disfranchise them, how does that fit the Constitution that we have sworn to support. Now, the platform has a pledge in it. I was nominated under it. I was not there when the platform was adopted, nor was I present at Birmingham at the meeting when the delegates ratified it and said that they would stand to it. I said all the time on the stump that I would vote for *a* support a reference of the Constitution back to the people. I was opposed to increasing the rate of taxation, but I was in the field and wanted to come to the convention not for any honors that it would bring to me personally, but to pay a debt of gratitude I owed to the people of Alabama for having honored me. I was willing to aid them by lending my feeble efforts to help them out of the trouble into which they had fallen in consequence of this evil of universal manhood suffrage, which had been thrust upon us without our consent and without our agency, and I said to them I am for making a constitution which will elevate the suffrage
36 and I am for eliminating from the right to vote all those who are unfit and unqualified, and if the rule strikes a white man as well as a negro, let him go. There are some white men who have no more right and no more business to vote than a negro, and not as much as some of them.

Now, it is true statesmanship not to legislate, especially in making a fundamental law, on account of the smarts and wrongs done us in our past history. That is not it. It is to deal with present conditions, whether they came by our commission or were thrust upon us that don't make any difference. You are considering to-day a constitution for the people hereafter, people who have to succeed us after my hairs have gone down to the grave, and after you and I sleep in mother earth. You—every man of you, are doing a work that, it is to be hoped, will be beneficial to those who succeed you. Now, to what shall we look? Shall we go back to the irritations of the past to guide us, or shall we look to our present surroundings and cast aside the things of the past which are not alive to-day? I have said about all I intended along this line.

Will we completely exclude the negro from participation—all participation—in the affairs of our State, or will we allow a reasonable number of them—the better element of them—to go to the polls and vote? In a people so large a minority of the population as they are—eight hundred thousand, and whites ten hundred thousand, eight hundred thousand out of eighteen hundred thousand—did you ever in all your reading know of a people and so large a minority as that, who were not allowed any voice at all in the affairs of government to remain contented under that government? Have you ever heard of so large a minority who have been admitted into the participation of the affairs of government for thirty years, who were afterwards silenced? Will not there be disturbances? Why, some of these people are becoming very intelligent, and acquiring property, and gentlemen, it may not occur next year, or

the year after, or five years hence, but, if you go along
37 with this, and practically none of them having any voice in our affairs, you may live to see the time of outbreaks and troubles not now contemplated, such as every man who participates in making it thus will live to regret. Let them occupy a subordinate position, but do not silence them. Let the better element of them, though of an inferior race, who have won the confidence of their neighbors, won respectability and acquired property—allow all of that class a fair show, and let them go to the polls and vote. There is no danger in that. Exclude the densely ignorant and corrupt. I do not stop at the exclusion of the negro, but exclude the whites of this class and deny them the right to vote also. The privilege of voting is not a natural right. Those ladies up there are citizens, and naturally have as much right to vote as I or you or any of us, but a voter is one who is selected on account of his supposed capacity for handling the ballot wisely and well. He handles it as a trustee. He votes for his wife and children, and for his neighbors who are denied the privilege. Take it on the basis of all males 21 years of age and upwards, it is about 5 to 1, and he is voting for four others as well as himself on that broad basis. I would not allow the ballot, if I had it in my power, to go into the hands of a vicious and notoriously corrupt white man any more than I would a negro, in fact, I would not trust him as quickly as I would a negro of intelligence and good character. You want that matter handled wisely and well for the best interest of the community. It is not a racial question. If you propose to make it a racial question, what would be the end? As some say, the extermination of the negro. Prepare him and then send him back to his native Africa? That is a doctrine that is advocated now, not only by some men but by some statesmen. Gentlemen, it is an utterly impracticable thing. In the aggregate, there are ten millions of these people in this country. They are citizens not only by our State laws, and our State constitution, but they are citizens by the Constitution of the United States, and it is so declared in that instrument.

They have the right to go when and where they please
38 as other citizens. The power don't rest with the Government to rob them of this right or to colonize them in any other country. Then there is the labor question. Why, as I sit in my door and look out, who is it that fixes all these telegraph and telephone poles on the street? I have never seen a white man on one of these poles. The negro performs nearly all the labor down here in this country, and isn't he better as a contented man than as a discontented one? Wouldn't it pay us to treat him right, and give him full protection under the law, and give him a voice in the affairs of State, and retain him here, rather than to engage in this impracticable scheme of a race conflict and his expulsion? We do not own any lands in Africa to which we can send them. Such land mostly belongs to European nations, and even if we had that power, and he were not a citizen, where are the vast sums of money to come from to take him over there and settle him? You would not take him

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over there to starve. You would have to support the whole colony for a time. Then what would you do for labor in the South? The climate invites them, and the occupation of our people invites them here, where we raise cotton the great staple product of this country. Here where we have been raised up among the negroes, nine-tenths of these delegates know that there is an attachment between them and the white people which I say ought not to be disturbed. My friend, the delegate from Greene, on yesterday told us how he was shot down on the battle-field of Chickamauga, how his faithful slave and serving man attended him, stopping to serve him when he could have gone off to the other side and been free. The negroes knew what that war was for. They knew that their freedom was involved. Yet, look at their conduct, in the main, all through the South. They remained at home and made corn and supplies to support our armies in the field, and throughout the length and breadth of the Confederacy there was not a single outrage perpetrated upon any man's family, or any woman or child, or helpless person, by these people, although they were slaves. President Lincoln called for 75,000
39 troops to serve for 90 days to put down the rebellion, and he expected these negro slaves here would rise in insurrection and apply torches to the homes of their masters. Sadly mistaken was he. There never was such an instance in the history of the world, as of this devotion of the slaves to their masters presented during that remarkable contest.

## Fifty-fourth day.

MONTGOMERY, ALA., THURSDAY, *July* 25, 1901.

The convention met pursuant to adjournment, called to order by the president, and opened with prayer by Rev. Dr. A. L. Andrews.

Mr. HEFLIN (Chambers): Mr. President and gentlemen of the convention—I have enjoyed the earnestness of the gentleman who favored the minority report and I have the utmost respect for the ability and convictions of those gentlemen who have followed in the lead of the distinguished gentleman from Montgomery. This is a serious question that confronts us. This is a great battle that we are fighting and a great problem that we are to solve. The historians tell us that when Spain had pressed her conquest to the limits of the then unknown world, she stamped the pillow of Hercules upon her coins with a scroll around it, bearing the legend *Ne plus ultra*, No more beyond. But one day a bold and adventurous spirit sailed out far beyond and discovered a new world of transcendent beauty and riches, and the proud nation convinced of her mistake, cut the negative from her coin and left the words "*plus ultra*"—more beyond. Since man tasted the supernatural joys of Paradise, and lost that high estate, he has been wandering in search of an ideal country. It was this love of an ideal country that painted the Arcadia in the brain of the French philosopher. It was this same love of an ideal country, Mr. President, that inspired the pen of Sir

Thomas Moore to write his far-famed Utopia. It was this same love that thundered in the eloquence of Cicero and thrilled the heart of Plato. It was this same love that inspired the men of the imperial Cæsar to follow him beyond the Rubicon. It was this same love that fought the decisive battle of
40 Hastings. It was this same love that carried the torch of revolution through the iron storms of war, seeking liberty; it was this same love, Mr. President, that blowed on the canvas before the eye of Columbus and impelled him to brave dangers until he touched the shores of an ideal country to be, and uttered the pean of praise and song, the hymn of hope fulfilled. It was the same love that burned in the temple of the Pilgrim Fathers, and kindled the fires of revolution which no power on earth could extinguish until the Goddess of Liberty waved her sceptre over the land of the free and the home of the brave. It was here, Mr. President, that the Caucasian hewed out a republic, below whose temples and institutions will break harmless the billows of time, and it was here that the representatives of the proudest race that ever lived established a government that will never fall. It has here that the white man drove the red man from his home in the forest, and took possession of this land as we find in the Bible that God gave his servants command, to go up and possess the land. I verily believe he reserved America, this section of the Western world, for the permanent settlement of the Caucasion race, and here by mutual consent, they came together, and by mutual consent established a government for the good of all the people. In the course of time, gentlemen of the convention, the slaves were hunted out in Africa. The negro wandering through the woods like the beast of the field, and brought here to do what? Put upon the block and sold to the highest bidder to be the servant of his superior, the white man in this country. I believe as truly as I believe that I am standing here, that God Almighty intended the negro to be the servant of the white man. I believe that the Scripture will sustain my position on that question. I know he is inferior to the white man, and I believe that delegates of this convention believe him to be. He knows it himself. After remaining here the servant of the white man for years and years, finally upon a question of State rights, and not on the question of slavery, the greatest civil conflict in human history was enacted in our country. Great men
41 were arrayed upon opposing sides, and for four years the undaunted sons of the South illustrated to the world the bravest spirit that has ever throbbed beneath God Almighty's sun. Fighting for home rule, and fighting for self-government, and what occurred. They issued a proclamation the President of the United States, freeing the slaves of the South, taking from them that which they had bought and paid for with their own money, snatching from — this property that they had bought in the market, and which belonged to them, and that they of right, could not take from them by a stroke of a pen as they did. What else, Mr. President? This was a military blow at the labor system of the South. Later on they

said to this mass of ignorant slaves, untutored and uncultured, you may walk side by side with your master of yesterday and cast your vote and kill his will. Unfit for the responsibilities of government, they were turned loose upon the people of the South, and marched side by side with the chivalric sons of our country, up to the ark of the covenant, the ballot box in our land, and voted like the high-spirited, free-born Americans of our land, like the men who fought the battles of this country, the men who bought it with their blood and who with their arms bravely and undauntedly secured American independence.

I take the position, Mr. President, against the gentlemen of the minority of the committee, that the negro never had the right to vote. I take the position that the exercise of the suffrage was an inherent right with the white man and a privilege with the negro, granted by the white man. There is a distinction. We have it in our power to give him the privilege to vote if we see fit to do so, but as to the white man, it is his birth right in this country. The gentlemen of the minority make the mistake in reasoning from the stand-point of equality. It is true under the law of this State the negro must be equal with you in the exercise of the ballot, but we know as a matter of fact that he is not equal to us. God Almighty did not make him so, and the work of the artists of the minority report cannot improve on his handiwork. (Applause.)

42 Why, Mr. President, the striking from him of the title slave, and placing in his hands the ballot was the most diabolical piece of tyranny ever visited upon a proud though broken people. I believe, sir, that the tour of the President of the United States through the South has opened the eyes of the northern country on this proposition, and that they see today that they made a mistake when they gave the negro the right to vote. Mr. Lincoln said upon one occasion, "I do not favor now, and I never have favored giving the negro the franchise." Mr. President, it is a fact that the majority of the Northern States, outside of the New England States, voted against giving the negro the right to vote. Francus Preston Blair, in the United States Senate in 1871 said: "Missouri gave 31,000 majority against it, Kansas 15,000, Ohio 50,000, Michigan 34,000, New York, Connecticut and New Jersey and all the Northern States went against it except the New England States." He goes on further to say, Mr. President, that the representatives of the legislature and Senators and Congressmen violated the will of the people and carried through the 14th and 15th amendments. We see how it was brought about. Was it their desire to elevate the negro? Not at all. As I said before, the striking off of the shackles from his feet was a blow at the labor system of the South, and giving him the right to vote was a blow at the proud spirit of the men who had by the very force of their heroism killed more of the men in their army than we had men in all the armies of the Confederacy. Humiliated, stricken down, the men who wore the grey were the bravest that ever drew a battle blade. The bravest that ever crossed the field of carnage or shed blood in the cause of right, and when

time is over, when history shall finally be made up, I believe the historian will record the fact that the Confederate soldier was the bravest that ever lived in the annals of time, and yet, Mr. President, the gentlemen who favor the minority report tell us that it will humiliate a descendent of illustrious men who walk up to the ballot box and say I am a son of a Con-
43 federate soldier. Humiliate him? If it humiliates him he is not worthy to vote. He is not worthy to have any voice in any government on any question. The proudest title of the Romans was to smite himself upon the breast and say I am a Roman soldier. The proudest title that the young men of this day can wear, is to walk out and say I am the son of a Confederate soldier. Humiliate him, poor timid fellow, who has got to walk up to the ballot box and say I am a Confederate soldier's son. But they advance the argument that you want to give him an advantage over the negro in the race. No, that is not it gentlemen. The proposition that I am fighting is the one by which they undertake to put him upon the same level, and for him to march up side in the same column with the white man. If you want to make a foot race, let us make it with the descendants of our own tribe.

Mr. President, the only instance in history where a race which you might say was physically prohibited from amalgamating or assimilating with another race, was given equal rights and privileges by the law with that other race in that same community. You can't trace history back to a single recorded instance where two such opposite races were ever brought together under the same laws affecting both alike. There is nowhere a single recorded instance where Africans and Caucasian races, impossible of mutual absorption or amalgamation, were accorded the same political, legal and social rights under the same government.

Mr. President, we have told the people of Alabama for years that we wanted to disfranchise the negro. He has been about a ballot box like sheep in the market, for sale and traffic to the highest bidder. The white people who love the ballot, who love the sanctity of their fireside, who love the government of their homes and of their States, want to exercise that great weapon in the defence of things that are right and sacred. We want to take it out of the hands of men whom you can purchase for 25 cents and a drink of whiskey. We want the white men who once voted in this State and controlled it to vote again. We want to see that old condition restored. Upon that theory we took the stump in Alabama, having
44 pledged ourselves to the white people of Alabama, upon the platform that we would not disfranchise a single white man. Why did not gentlemen speak their views on this question before the sovereign authority of the State had sent them here. Why did they wait until they had gone beyond the border line. Why did they wait until they had securely enthroned themselves in the confidence of the voting masses of Alabama? But we are here confronted with this minority report. There is a division among us. All representatives of the same party, men who were elected upon

the same platform, and some gentlemen tell us that we ought not to violate our oath to support the Constitution of the United States, but I say, gentlemen, let us not violate our pledges to the people who sent us here.

Mr. President, it required more than a thousand years of education, to prepare the thoughtful Saxon and quick-witted Celt for the duties and responsibilities of American sovereignty, and yet the negro by a scratch of the pen and a partizan vote was prepared for it in the twinkling of an eye, turned loose as an enraged mob upon the proud people of Alabama who made its name the glorious thing it is. Before the white man saw that his right was infringed upon, when he saw the ballot appear in the hands of his own blood, he loved and respected it above any power in the civil laws under God Almighty's sun. Then it was kept pure. The negro did not vote. Nobody voted but the white man, and it reminds me of that story of the Vestal virgins, and the temple there in Rome, where the Vestal virgins kept the sacred fires burning forever, and the Roman consuls would gather there and offer up their sacrifices and prayers before entering upon the discharge of their duties to their country, but when the sacred fires went out, and profane fires burned upon the hearthstone, they felt that virtue had gone out of the temple, and they no longer worshipped there and made their offerings. They lost respect largely for the sacred temple, and Mr. President, when the white people of Alabama marched out on the occasions fixed by law to settle the great questions at the ballot box and walked elbow to elbow with their own brethren, it may be they were arrayed on opposite sides, they deposited their ballots, the result was counted out and they shook hands and all was well. Nobody but the proud Caucasian cast his vote, nobody but him dared to walk upon the sacred soil about the ballot box in that day and time, but when slavery was no more, when the slave was given the ballot, and when these great hordes marched to the ballot box, the proud spirit of the white man felt to a large extent that the virtue of the ballot had been removed, had flown, and he did not respect it as he did in the glad days that were gone. We want to see that glad time restored in Alabama, and it is going to be restored. The people hope that this convention will carry out the pledges that were made to the people and unless they do, the people will pass final judgment upon our work here and will not endorse our action. They tell us what the Supreme Court may say and do. I want to remind gentlemen what the supreme authority in Alabama will say and do if you do not obey its mandate. I do not believe that we are violating the Constitution of the United States, if so I am willing to trust my destiny along that line with the distinguished president of this convention and the chairman of the suffrage committee and the other distinguished gentlemen who made the able argument on yesterday, Mr. Walker from Madison, and the other gentlemen who have spoken on this question, and the able lawyers in this body. I am willing to take their decision in respect to its constitutionality for my part. I belong to

that class of young men that General Harrison referred to. I hope to God that I will always stick along the line that I have started on, of living up to the pledges that I make to my people. I have not grown beyond that yet. I want to live up to the pledges that I have made to them. We all must do that. They spoke of the young man back yonder who said that he could drink all the blood that would be spilled in the war, and whip the North with pop-guns. We have all heard that old story. We know those were bloody times, but I would remind them for a moment
of these of whom I speak when I speak of the Confederate
46 soldier and his descendants. I would remind the gentleman that it was a southern man who wrote the Declaration of Independence, that it was Washington who led the triumphant cause of American independence; that it was Madison who wrote the Constitution; that it was Marshall and Taney who constructed the law; that it was Winfield Scott and Jefferson Davis that carried our flag into the heritage of the Montezumas. I would say to them that it was these southern men that for four long years fought the battle of their country, and they could never have fought as they did at Gettysburg, perished as they did at Crampton's gap unless they had fought for the loved principle, and the descendants of these men you say will be humiliated and cast down when they approach the ballot box to register their will upon the public question, must be required to state themselves descendants of Confederate soldiers. Far be it from him. There will never be a single instance in this State of that sort. Not one.

Mr. PETTUS (Limestone): I move that the time of the gentleman from Chambers be extended twenty minutes.

The motion prevailed and the time was extended.

Mr. HEFLIN (Chambers): I thank the convention. I do not think that I will take up the time. Mr. President, we have here a peculiar state of affairs. Here we have a widowed woman, who owns possibly a hundred thousand dollars' worth of property. She is disfranchised. She cannot under our law vote in any election. You say that is taxation without representation. You argue that in defense of the negro and you say that you are not going to tax him without allowing him to vote, or to shut off his voice in public affairs, and yet there is this property which you are taxing to-day, the property of all the women in the State who have not husbands or sons old enough to vote, without representation.

Under our law, Mr. President, the Chinaman and the Indian cannot vote. Why discriminate against the children of the forests, the red man, who, by some means in the plan of God Almighty owned
this country before we found it? Why say to them that we
47 will shut them away from the ballot box, and say to the negro whom we found in Africa roaming the woods like a beast, brought here and sold as slaves, we will elevate you to the high plane of a citizen in Alabama, and arm you with the ballot, but say to the Indian you cannot vote; and as was said by the gentleman from Wilcox, (Mr. Jenkins) some of the proudest blood in

Alabama to-day is Indian blood. Some men in Alabama are proud of that blood. But we have said to the red man he cannot vote, but to the negro you may.

Mr. President, I love to think of how faithful they were during the war. The gentleman from Montgomery (Mr. Oates) spoke about how they protected our homes, and how they looked after our affairs. That, Mr. President, was the old time slave of over thirty years ago. That, Mr. President, was the negro that had been brought up in the kitchen, in the back yard, and brought up to reverence and respect his master. There was a spirit of fear that went about him; reverence for his superior and a feeling of humility and obedience on occasions like that was innate, and we are glad that they did so well. I am not an enemy to the negro. I am a friend to him in his place. My father owned more slaves than any man in Randolph county. I love the old time southern negro. He was in his place as a slave, and happy and contented as such; and, Mr. President, I love to think of the old black mammy, as Governor Taylor says: I believe the day will come when the South will erect a monument to the old black mammy for the lullabys she has sung. We like to think of all these things. We like to think of Ephriam sitting around the fire place picking his banjo and eating roasted potatoes, and "sich." We love to go back and bring them back to memory; but you take the young negro of to-day and put them in the same position that their fathers were in, and, gentlemen, a quarter of a century from now you would not be on a floor like this singing their praises. I tell you that the old negroes are passing out and the young bucks that are coming on have got to be attended to. I like to think of the negro from the old fashioned southern standpoint. I like to tell him you do this,
or you do that, John, and here is a quarter; you
48 black my shoes, or catch my horse, and you go do this and
that, and all is well; but when I have to walk up to him and say, John, come down off of that telegraph pole that Governor Oates spoke off on yesterday where he is setting telegraph wires through the city; come down, I want to talk to you about the tariff question, and sit down with him at my side, just light up our cigars and talk. We are equal in the light of the law and I have got to sit down by you and ask you to vote my way, not because you are my equal, for God Almighty never made you so, but because under the operation of the law that was born in hate and malice makes it so; and under it you are entitled to hear me and be persuaded by me to vote for me, or to vote against me. Is not that a sad state of affairs? Why, Mr. President, I saw this morning a little fellow coming down the street, met by my friend, Mr. Weatherley from Jefferson and the negro was as happy as could be, with a piece of watermelon in one hand, and a set of cane quills from the swamp tied together with a string in the other, blowing goo goo eyes. You see them now and then in a blacksmith shop with squeaking bellows, and with the hammer and anvil making music sweet. That is his home, that is where he ought to be, and that is where he must be. For five thou-

sand years, Mr. President, they have remained the same. Go back to the carvings of Egypt and see their images there; look at the negro of to-day; he is a negro still, having made but little progress. All things that we see standing accomplished in the world to-day are properly the outer material results, the practical realization and embodiment of thought that dwelt in the white men sent into the world.

A man goes out and buys a section of land, or inherits it from his father and in the midst of the place he has built a magnificent home and there he rears his family, and the negro comes along through the country and builds himself a little house out in the woods and becomes the servant of the white man and looks after his horses, and stands at the door with his hat off and asks, "Boss, do you want your shoes shined." And all is well. He stays in the kitchen where he belongs. Finally, however, we see that
49 man telling this negro you are too good a man to be out there; come in by the fireside, and let us counsel together as to how I shall run my property. Mr. President, it is the same case. The white man bought this country with his blood, and the blood of his descendants inherit it, and the negro has no right to help make the laws that govern this country. He is inferior to the white man, and the white man should make the laws to govern the land. They say we do not hold out any encouragement to him. He does not need encouragement, let him go on and it won't be two years until he will be content with his condition and happier by far than he is to-day. Why, as soon as you elevate him, you ruin him. Mr. President, I take the position that it is best for the negro race. Take the lives of the hundreds that are killed every year at the ballot box. They will be saved when they cross the path of the proud Caucasian. It will be better for them. They will prosper more.

Now, sir, I have not the time to say what I would like to say, neither has this convention the patience to hear me. One other word and I am through. Why, gentlemen tell us that the son of the Confederate soldier should not be allowed to vote, but he should work out his salvation as his father did. Do not let him by reason of his father's valor, and sacrifices for his country, cast his vote. I cite the gentlemen to the Scripture. It is found in Deuteronomy, "And it shall be when the Lord thy God shall have brought thee into the land which he swore unto thy fathers, Abraham, Isaac and Jacob, to give thee great and goodly cities, which thou buildest not, and houses full of good things which thou fillest not, and wells to dig which thou diggest not, and vineyards and olive trees which thou plantest not." It is the inheritance, Mr. President, that we are asking for the sons of the Confederate soldiers, those who supported their widowed mothers and schooled their sisters, that brought them up and were themselves denied an education. We throw around them the strong arm of the law, and take them with us as we march up the mountain side, to a higher and better clime, a higher and better civilization.

50 Mr. President, so far as I am concerned, I am opposed to the disfranchisement of any white man. I care not whether he is learned or unlearned, whether he wears the purple robes of good fortune, or the tattered garments of poverty and want. I care not whether he is in a little hut on the hill side or dweels in a mansion on the mountain top; he is a descendant of those who fought for our freedom, and men who have gained the priceless heritage which we love so well and will die to maintain.

In conclusion, I want to say to the gentlemen who compose the minority of the committee: You will live to see that we are right, and that you are wrong, and the people of Alabama whom we represent here to-day in this supreme body will endorse our action and repudiate yours. I thank the convention for their attention.

## Fifty-fifth day.

MONTGOMERY, ALA., FRIDAY, *July* 6, 1901.

The convention met pursuant to adjournment, called to order by the president, and opened with prayer by Rev. A. L. Andrews.

The chair recognized the gentleman from Calhoun (Mr. Knox).

Mr. SAMFORD (Pike): I have observed, Mr. President, that in extending the time of speakers on this question so far, that we have had to interrupt them in the midst of their argument, and I therefore move that the rules be suspended, before the argument begins, and that the gentleman's time be extended until he can complete his remarks.

Upon a vote being taken the motion was carried.

Mr. PRESIDENT AND GENTLEMEN OF THE CONVENTION: The sudden enfranchisement of a large mass of ignorant voters, just emerged from slavery, by the adoption of the 15th amendment, has been recognized almost everywhere as the mistake of the 19th century. The consequent evils that we have suffered, in common with other States, need not be dwelt upon. They go to make the history
51 of reconstruction in the South, and represent the darkest days through which our people have ever, and I trust will ever be called upon to pass.

The practical question, Mr. President, is what can we do, within the limits imposed by the Federal Constitution, to ameliorate the unfortunate conditions which the creation of an ignorant, vicious and incompetent electorate has brought upon us. That the southern man is sceptical as to the ability of the negro to become a good citizen and to exercise the responsibilities of citizenship in a manner which would justify their extension to him, is scarcely to be wondered at, when we remember that Mr. Lincoln, the negroes' greatest and truest friend, held similar views himself. In his speech at Charlestown, Ill. on Sept. 18, 1858, Mr. Lincoln said:

"I will say that I am not and never have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of

making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say, in addition to this, that there is a physical difference between the white and black races which I believe will ever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they remain together there must be a position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race."

(1 Complete Works, 369.)

While we regret, Mr. President, that in the suffrage plan we have not the support of either of our Senators, we remember that those who battled with these difficulties in Louisiana and North Carolina were in a like condition. They, too, had the opposition of both of their Senators, but they were not deterred on that account from establishing constitutional reform, and saving the State from the domination of the ignorant and vicious element. But no great reform movement like this has ever been accomplished except by beating down obstacles which confronted on every hand. If
52 we are right, as I believe we are, let us stand by our guns, no matter how virile the criticism or how prominent the objectors.

## Fifty-eighth day.

MONTGOMERY, ALA., TUESDAY, *July* 30, 1901.

The convention met pursuant to adjournment, called to order by the president, and opened with prayer by Rev. Marshall.

Mr. COLEMAN (Greene): Mr. President, the hour is approaching at which we will be required to take a vote according to the resolution which has been adopted by this convention. There are several gentlemen who desire to place themselves upon record upon this question. I move that the rules be suspended (expressions of dissent).

The PRESIDENT: The gentleman from Greene will proceed to state his motion.

Mr. COLEMAN: I move that the rules be suspended, and that the vote be taken at 1 o'clock to-day, and that speakers be limited in their speeches from now until that time to not exceeding ten minutes.

Mr. PILLANS: That requires a suspension of the rules, Mr. President.

The PRESIDENT: The question will be first upon the motion to suspend the rules.

A vote being taken the convention refused to suspend the rules.

Mr. COLEMAN: I regret very much that a number of persons have not had an opportunity to express themselves upon this great question, so that the members of this convention from other portions of the State might have an opportunity to know the

sentiments of the people whom they represent. As the rule requires that the vote shall be taken at 12.30 I propose in the meantime to exercise the right, and that which is expected of me, to consume the next 10 or 15 minutes. I do not expect the delegates of this convention to fortify the legal propositions which have been stated before you, which have been discussed with so much ability, and which it seems to me, to any unbiased mind, have been conclusively established. I propose, however, in this short time, which I have, in my own
53 common sense, and commonplace way to supply some material for argument, if it should be required in the discussion before the people, upon the ratification of this constitution. While the illustration of the gentleman from Jefferson was homely and perhaps beneath the dignity of the subject, inasmuch as it has been commented upon more than once in this convention, and carries upon its face that which would deceive or mislead, I will use his homely illustration by way of defining what I understand to be met by the phrase "You cannot deny or abridge the right of suffrage to any citizen because of his race, color or previous condition." Now, if the delegate will remember, the homely illustration is that of the sow and pigs, making a crack by which the pigs could escape, and the sow would be confined, and he asks you if that is not a discrimination. Of course it was, but the vice of the gentleman's argument was this: He did not state the whole case. The question is, Why was the sow confined in the pen, and why were the pigs permitted to run at large? If the sow was confined there because she was a sow, it was a discrimination on account of her race, but if the sow was confined there on account of her vicious habits, it was a discrimination on account of her habits and not on account of her race. The proposition presupposes that there was somebody in control of the sow, and I venture to assert that if you will go to the owner and ask him the question, "Why did you confine her in that pen?" he will tell you that it was because of her predatory habits, that she visited the poultry yard, or got into the melon patch, and they were compelled to confine her in the pen. That is a simple illustration of the law. That is what is meant by denying or abridging the right to vote on account of race, color or previous condition. But it makes no difference whether she was a black razor-back or a red sow. I intended to elaborate these questions somewhat at length, but the gentleman cited from Stringfellow *vs.* Ivey case to show you the danger that when an improper consideration was framed in a law, that the whole might be stricken down, and he was even more unfortunate in his illustration. The case of Stringfellow *vs.* Ivey, was this: When a man sells lands,
54 he has a lien upon that land for unpaid purchase money. But no lien upon personal property for the unpaid purchase money. Mr. Stringfellow purchased from Mr. Ivey a piece of land and agreed to pay him so much money and a stock of goods in a lump sum. Now, it not being paid, a bill was filed to enforce the vendor's lien. The court held that the lien could not be enforced,

because the consideration consisted of land and personal property. There had been no agreement as to the value of the land, and the value of the personal property. And, therefore, the court could not tell how much was due for the land and how much was due for the personal property, but the court held, and they have always held, that even though the consideration consisted of a sum of one note *had* specified how much was to be paid for the land and how much was to be paid for the personal property, the court would have upheld that which was for the land and discarded which was for the personal property. I mention this to show you that in the writing of this section under consideration, we have carefully guarded against every legal danger of having the law stricken down. I desire to simply call your attention to the law upon this subject. When part of a statute is unconstitutional, the statute remains as complete within itself, and capable of being executed in accordance with the apparent legislative intent, wholly in accord with that which is rejected, it must be sustained. (65 Ala.) Now, those gentlemen admit that the understanding clause, as we will designate it, is constitutional. They admit that the soldier clause is constitutional. This proposition says that if that be true that even though you strike out the descendant clause, the whole of the remaining fabric would stand and be sustained by the courts. I do not make this argument because of any apprehension that any part is unconstitutional, but simply to show you the falsity of the argument they have presented. There is not a proposition adduced here to sustain them. They have been overthrown by argument, and even upon these simple propositions they relied on so much, there is not a decision or principle of law that sustains them. I will read you only one more line, and that is upon what courts have declared to be the law when you deny the right of suffrage upon the ground
55 of race, color or previous condition. I say it is one which may be exercised to the full limit if the abridgment is made not upon the point but upon the point of characteristics of the parties excluded. Here is the case: 170 U. S.—the last opinion upon this subject. This is the Mississippi case. The court says: "Restrained by the Federal Constitution from discriminating against the negro race (that is the Mississippi convention) discriminates against its characteristics, and the offenses to which its criminal members are prone. No exception is made to it. "But nothing tangible can be adduced from this," says the court. If weakness were to be taken advantage of, it was to be done "within the field of permissible action under the limitations imposed by the Federal Constitution." Can anything be plainer than that? "And the means of it were the alleged characteristics of the negro race, not the administration of the law by officers of the State." I do not see, delegates, what may be said in addition to what has been said. The whole argument that the Constitution is in danger if any part of it should be declared null and void, is without support either by authority or reason. When you say you put a standard to which the negro cannot attain, and our legislation is confined to his char-

acteristics—and it is certainly confined there—the very latest exposition of the Supreme Court of the United States sustains us in that position. That the gentlemen has cried "fraud." I will ask him to rise in his seat if he is here, and tell me what court, and at what time a court has ever declared a statute to be void on account of fraud, much less the organic law of a State. Fraud enters into transactions between parties, but you heard the principle discusses here time and again in regard to the Shelby County case. They had no relief, because the statute could not be attacked as fraudulent and by your vote that proposition was sustained, and I assure the delegates of the convention, as a proposition of law, is sound. The apparition that they are trying to draw up here melts away in air when it is exposed to the light of the decisions and principles of law so long established in this country. I do not know what to
56 say, gentlemen. The honorable delegate from Jefferson county has told *told* you that he was one who took a solemn oath before high Heaven that the white man should rule, and we have heard the delegate from Montgomery county complain that the act- of the Ku Klux were not sufficient to satisfy him, and that he time and again in order that the elections might be carried, even by fraud, encouraged the managers. And yet an officer upon whom high honors were conferred and he time and again—and I class my friend sitting there in the same category (applause) whose consciences are disturbed by the provision that we must support the Constitution of the United States, and, therefore, they cannot see their way clear to vote for the report of the committee. I have read, and I don't say it with any purpose of disparagement, of a certain class of people of whom it was said that they would "strain at a gnat, but swallow a camel." I do not know what more could be said to convince these men. We do know that on a certain occasion, a man was found in a very hot place, and he desired that he might be sent back to earth that he had five brethren there to tell of the place. But he was told that if they did not believe what they had heard, they would not believe though one came back from the dead. (Applause.) The good book tells us there were five brethren, I wish there were only five here; but I can count four of the minority report, and I can count my friend over there on the same side is the delegate from St. Clair county, who, in this convention, said that one of the brightest stars in the crown was the 15th amendment. I do not know how they would like that kind of company. (Applause.) I was shocked to hear a man claiming pride in being a white man, to say that he regarded the 15th amendment as one of the brightest jewels in the crown, or one of the brightest something that is pinned to the Constitution—I don't remember exactly the language exactly now. After hearing him say that, fellow delegates, I was not surprises to hear him afterwards say that he feared neither man, hell nor the devil. If there was no other reason for calling this convention here, and no other reason
57 for ratifying this constitution, it would be sufficient for me to work for it in order that so many of his constituents

might be eliminated from the suffrage plank as to retire the gentleman entertaining those sentiments. And I hope those living in that community will preserve the record of the man who could endorse the 15th amendment in Alabama in view of all that we have gone through. I will not express my opinion of him. (Applause.) Mr. President, I believe as strongly as that I stand here, not only the fraud, the violence, the bloodshed, but I believe not one of our fair women have ever been assaulted in this land, but that the infamous act may be traced to the 15th amendment, and I feel shocked as I remember that only a few weeks ago a fair young lady in the gentleman's own country was the victim of an assault from one of these black fiends. That is my opinion of one of the effects of the 15th amendment. I wish that I had time. The gentleman from Pike sitting over there, had his speech read here, in which he stated that Senator Morgan and Senator Pettus held that this provision was unconstitutional. I say that he cannot find one line in anything that they have said, or written that sustains him in that proposition. On the contrary, it has been expressly admitted by one that it was constitutional in a public speech, and he has never retracted it. I take this occasion to say to this convention, that no longer than yesterday the senior Senator, Gen. Pettus, told me out of his own mouth that "When you mey I did not see how you were going to keep the Democratic pledge and not violate the Constitution" but he says "I assure you that you have performed the difficult task." And he told me, Mr. President if it was necessary, he would not only support this clause that we have under consideration now, but if necessary he would go into the country upon it. I wish to read a short estract from a letter of Senator Morgan. The gentleman who has the letter is within the hall of this convention, but has not had the opportunity to address you. "The counting of the electoral votes of Louisiana and Mississippi is a silent admission of immense value with reference to the power of the States to regulate the negro
58 vote." Think of that! Mississippi and Louisiana have already been counted—and that was the last we have heard from Senator Morgan.

STATE OF ALABAMA, }
*Montgomery County.* }

Before me the undersigned authority in and for said county, on this day personally appeared Wilford H. Smith, who makes affidavit that he is the attorney engaged in the preparation of the case upon application for mandamus of Jackson W. Giles against the Board of Registrars of Montgomery County, and that the foregoing 12 pages of printed matter pasted together on paper, are portions of the speeches and debates that were delivered in the constitutional convention of Alabama, which was in session during the month of July 1901, in the city of Montgomery, and that the portions so pasted together on the foregoing pages were taken from the official report of the proceedings of the convention, found in the archives of

the State in the capitol in Montgomery. He further makes affidavit that the foregoing two pages of type written matter purporting to be the speech of acceptance of the Hon. Jno. B. Knox as the president of the constitutional convention, *was* copied by him from the journal of said convention, which journal was prepared and published by order of the secretary of Alabama, and was found among the public records in the capitol at Montgomery.

WILFORD H. SMITH.

Sworn to and subscribed before me this 1st day of July 1902.

JOHN A. ELMORE,
*U. S. Commissioner.*

[SEAL.]

59 *Affidavit No.* 1.

The Advertiser.

Tuesday, June 24, 1902.

Few negroes registered. Only 36 get certificates in Lowndes. 975 whites on the list. Blacks do not come up to requirements, as a rule.

Charge that they are being given certificates indiscriminately is shown to be untrue. In other counties.

By D. W. McIver.

Fort Deposit, June 23 (staff correspondence).

The rumor has gone abroad that negroes were being registered in Lowndes county generally and indiscriminately. The report came to the Advertiser from a prominent citizen of the State who wrote:

"I am in receipt of a letter from a prominent Republican in Alabama advising me that the negroes are being registered in Lowndes county in large numbers. I hardly think it true, and yet the gentleman who writes me thinks his information is authoritative. Have it investigated."

The board of registrars of Lowndes county is composed of three of the best and most trustworthy citizens of the county, viz: S. L. Tyson, Fort Deposit; Geo. E. Gordon, Hayneville; J. A. Coleman, Mount Willing.

Mr. Tyson is the chairman of the board, and he very courteously stated that the board had completed its work until after the election, and cheerfully made the following statement:

FORT DEPOSIT, *June* 23, 1902.

I hereby certify that after giving legal notice, the board of registrars of Lowndes county have spent one day in each beat, except

the two large beats, Fort Deposit and Sandy Ridge, where two days were given, and that we have registered 975 whites, and 36 negroes, each and every one of whom are qualified electors under the constitution of 1901. The work has been completed until the final round after the election in November.

S. L. TYSON,
*Chairman of Board of Registrars.*

This sets at rest the rumors as to the work of the registrars in this county, for having completed their labors, they have placed on the registration books 975 whites and 36 negroes. Mr. Tyson says that the board registered the negroes who answered the
60 questions propounded to them satisfactorily, and who gave evidence of sufficient intelligence to properly exercise the right of suffrage. The board in this county has been diligent and earnest in its efforts to do its full duty conscientiously and impartially, and that it has succeeded in doing so is the verdict of the people of the county.

Other counties.

From statements in the Advertiser in the past few days it appears that in Dallas county there have been registered 1,878, of which 47 are negroes.

In Marengo county there have been registered 1,567 whites and 306 negroes, and this will probably be the largest number of negroes registered in any one county in the State.

In Autauga county there have been registered 1,416 of which 37 are negroes.

And from information at hand, the registration of negroes in Russell, Macon, Bullock, Barbour, Perry and Wilcox has been in about the same proportion as in these counties in which the figures are given above. The negroes are not being registered except where they come up to the full requirements of the organic law, and these are not very numerous in any of the counties, being less than 20% of the whole in Marengo, and not really one per cent. of the whole in the aggregate.

Not a negro registered.

In Crenshaw 2,467 white men have received life certificates.

Luverne, June 23. (Special.)

The registrars for Crenshaw county are now making their last round, and have registered 2,467 white voters, no negro having secured a certificate.

Opelika, June 3. (Special.)

The Lee county registrars are busily engaged in registering the voters. They have finished in eight of the 14 precincts of the county, and so far not a single negro has been found to possess the

qualifications necessary to entitle him to a vote. About the usual white vote is registering.

61 Montgomery registration.

The board has nearly completed its rounds.

The board of registrars of Montgomery county have nearly completed their first registration before August, but have not as yet closed their books. Not 30 negroes have been registered in the county.

The voters are pleased.

New constitution is popular in St. Clair county.

Ashville, June 23. (Special.)

The registrars from St. Clair county have completed their business except a two days' sitting in Ashville in July. The total number registered is 2,380, 23 of whom are negroes. There will probably be as many as 150 more who will register. St. Clair county's vote will be cut down about 700. The people are well pleased with the new constitution, as they are now convinced that all the white men can vote.

The Advertiser.

Saturday, May 3, 1902.

Effort to register negroes.

The Dallas County registrars are now in the Fork. They expect to be in West Dallas next week, where, it is reported, an effort will be made to register negroes in several beats. The registrars can be depended on to do their duty, and it matters not what kind of pressure is brought to bear on them, they are going to register only those negroes who can comply with the requirements of the new constitution. It is said that the strongest pressure to register the negroes will be brought to bear on the registrars in Browns, Brown's and Pierce's beats. The number of negroes so far registered in Dallas is below 30 and it will be below 50 when they have finished their work August 1st.

62 The Advertiser.

Saturday, April 26, 1902.

Marengo registration.

A report has been published in a Birmingham paper that a great many negroes in Marengo county were being registered. This report has caused somewhat of a flutter in the black belt, as it was generally understood that the spirit of the new constitution would

be carried out and the negro barred from participating in the future government of this State. Your representative saw a prominent citizen of Marengo in the city to-day, and asked him whether the report was correct. He promptly replied: "It is not. Marengo county is going to go hand in hand with the other black belt counties and will only *register those negroes* who can come up to the requirements of the new constitution in reference to the franchise. Demopolis beat now has about 1,500 negro voters, and, as you know, there are several thousand negroes who have heretofore been entitled to vote, living out on the big plantations, but they will not be registered. Marengo may have about 150 negroes, out of its large colored population who will be given the right to vote by having a registration certificate issued to them, but the people of the State need have no fear that there will be anything like a wholesale registration of the blacks, as the dispatch from Demopolis in the Birmingham paper would indicate."

If your correspondent's informant is correct, this will be very gratifying news to the people of Alabama. In Dallas and elsewhere throughout the black belt very few negroes have been registered. The number who have been given certificates in Dallas county is still below forty, and it is not likely to go a great deal higher. It is thought when the registrars first started out that the number of negroes who would be entitled to certificates from Dallas would reach 125, and possibly 150. But it is not believed now that the number will reach half of the former figure.

The Advertiser.

Friday, March 28, 1902.

Day devoted to negroes. Nearly 100 applied to registrars, but only 17 got certificates.

63 Anniston, March 27. (Special.)

Yesterday was set apart by the county registrars for registering negro voters. Nearly 100 applied but only 17 of the number were given certificates. Up to date 1,705 men have registered, and only 29 of the number are negroes.

The Morgan registrars.

So far 3,640 whites and 35 negroes have certificates.

Decatur, May 5. (Special.)

The county registrars have just completed their first round in the registration of voters in the county, and gave out the following figures: Total number of white men registered in the county 3,640; negroes 35.

Later on the board of election registrars will meet at the county court house here for the purpose of registering those entitled to regis-

tration, but who were unable to register heretofore on account of nonage, absence from home etc. The dates of registration at the county court house will be as follows: One week in June, two days prior to the November election, third week in November, and six days before the 20th Dec'r.

H. H. Cashin, the well known negro politician and receiver of public monies of United States land office at Huntsville, was here to-day and said that a vigorous fight would be made against the new constitution by the negroes of Alabama. He stated that the constitutionality of the State constitution would be tested, and that the case would be taken up to the United States Supreme Court if necessary. He intimated that the board of county registrars had violated oath *af* office in refusing to register certain ex-soldiers of the civil war.

THE STATE OF ALABAMA, }
*Montgomery County.* }

Before me the undersigned authority in and for said county, on this day personally appeared Wilford H. Smith, who makes affidavit that he is the attorney in the preparation of the case upon application for mandamus, of Jackson W. Giles against The Board of Registrars of Montgomery County, and that the foregoing page and a half of printed matter pasted together are articles clipped and taken from the Montgomery Advertiser, a daily newspaper
64 published at Montgomery, Alabama, which represents the sentiments and opinions of the ruling class in the State of Alabama, and is the official organ of the party in power in said State.

WILFORD H. SMITH.

Sworn to and subscribed before me this 1st day of July 1902.

[SEAL.] JOHN A. ELMORE,
*U. S. Commissioner.*

*Affidavit No. 2.*

The Advertiser.

Sunday, June 29, 1902.

Urged to register.

Board of registers working in the city.

Two thousand white men in Montgomery have failed to qualify.

Books will be kept open fifteen days.

The members of the board of registrars of Montgomery county announced yesterday that they would reserve fifteen days at the court house for the accommodation of the voters of the county.

They express the hope that during this time the two thousand white voters of the county who have thus far failed to registrar will do so and thereby enable themselves to vote in the forthcoming State elections.

The board has completed its round of country beats and will be in beats 4, 5, and 6 of Montgomery on Monday, Tuesday and Wednesday in the order named. After Wednesday the board will be at the county court house for fifteen days, when the registration will close.

Montgomery Co. has five thousand five hundred white voters. Thus far only 3,200 of them have registered. Of this number 1,000 voters have registered and 2,200 voters in Montgomery have registered. There are still 2,000 white voters in the city and county who have neglected this important duty, and the members of the board of registrars are hopeful that the indifferent electors will come forward within the next two weeks and attend to this important duty.

A member of the board of registrars said yesterday that it should be impressed upon white voters that they are not to be asked embarrassing questions when they apply for registration, and that the members of the board are anxious to issue certificates to the white voters of the county.

65 STATE OF ALABAMA, }
*Montgomery County.* }

Before me, the undersigned authority, in and for said county, on this day personally appeared Wilford H. Smith, who makes affidavit, that he is the attorney engaged in the preparation of the case, upon application for a mandamus, of Jackson W. Giles, against The Board of Registrars of Montgomery County, and that the above foregoing printed matter pasted on this page was clipped from the Montgomery Advertiser, a daily newspaper, published in the city of Montgomery, on the date as shown in the above article, and that said newspaper is the official organ and mouth piece of the board of registrars of Montgomery county, as well as the party in power, and the ruling class in the State of Alabama.

WILFORD H. SMITH.

Sworn to and subscribed before me this 1st day of July 1902.

[SEAL.]

JOHN A. ELMORE,
*U. S. Commissioner.*

*Affidavit No. 3.*

STATE OF ALABAMA, }
*Montgomery County.* }

Before me the undersigned authority in and for said county, on this day personally appeared Jackson W. Giles, who makes affidavit that he is 43 years old, and is a person of dark complexion, and of

African descent, known as a negro, and that he is at present employed as janitor of the U. S. Government building in the city of Montgomery; that he was born in the State of Alabama, and has lived therein for more than thirty years, that he has resided in the county of Montgomery more than thirty years, and in precinct No. 4 of said county more than two years next before the time when he applied for registration as herein set forth; that he has never been convicted of any offence whatever, is a person of good character, and understand the duties and obligations of citizenship under a republican form of government; that heretofore, he has enjoyed all the rights
66 and exercised all the privileges of a citizen of the United States and of the State of Alabama, until the 13th day of March 1902, when he applied to the board of registrars of Montgomery county for registration as an elector of said State, while said board was in session at the court house in the city of Montgomery, and open for the registration of the qualified electors of said county, and complied with all the reasonable rules of said board, and was by them refused and denied registration, upon no other reason than his race and color; and that large numbers of colored persons were also refused and denied registration at the same time, and since for no other reason than their race and color, although possessing all the legal and necessary qualifications, and said board required affiant to furnish the testimony of two white persons as to his qualifications and character, and refused to accept the testimony of any colored person, while no such requirement was asked of any white person, and all white men were registered upon their application and oath without further proof of qualifications, but all colored persons had to furnish the testimony of two white persons; in this way large numbers of colored persons were denied registration solely on the ground of their race and color, and he estimates the number disqualified in Montgomery county at about five thousand. Affiant says that the juries in the trial courts of Montgomery county are composed exclusively of persons of the white race, although the colored people are in the majority of said county, and that all colored persons are excluded from service on any of the juries in the State courts of said county for no other reason than their race and color, although otherwise qualified, and have been so excluded for a great many years, and affiant is informed and believes that all negores are likewise excluded from jury service in all the State courts throughout the State of Alabama.

JACKSON W. GILES.

Sworn to and subscribed before me this 24th day of June, 1902.

[SEAL.]

J. A. ELMORE,
*U. S. Commissioner.*

67 *Affidavit No. 4.*

STATE OF ALABAMA, }
*Montgomery County.* }

Before me the undersigned authority, in and for said county, on this day personally appeared James L. Jeter, who makes affidavit that he is 31 years old, was born in the State of Alabama, and has lived therein all his life; that he has resided in Montgomery county more than ten years, and in precinct — of said county more than two years next before the date of this affidavit; that he has never been convicted of any offense whatever, is a person of good character, and understands the duties and obligations of citizenship under a republican form of government; that he is a person of dark complexion and of African descent known as a negro; that heretofore, he has enjoyed all the rights and exercised all the privileges of a citizen of the United States and of the State of Alabama, until the 25th day of March 1902, when he applied to the board of registrars of Montgomery county for registration as an elector of said State while said board was in session at the court house in the city of Montgomery, and signed the proper blank application provided by said registrars, and complied with all the reasonable rules of said board, and was by then refused and denied registration, for no other reason than his race and color, and said board required him to bring two white men to testify to his character and qualifications, and refused to accept the testimony of any colored person and that affiant procured testimony of two white men before said board as to his qualifications and character but said board still refused to register him and grant him a certificate, for no other reason than his race and color, while all white men applying to said board were registered without any question or hindrance whatever, and without being required to furnish any evidence of qualification and character, except their own oaths, and that all negroes applying to said board were required to furnish testimony of two white men, and said board would not accept the testimony of any colored person; affiant says

68 that large numbers of negroes applying for registration at that time, and since were refused registration for no other reason than their race and color, and he estimates the number of negroes thus disfranchised in Montgomery county at about 5,000; affiant further says that in the trial courts of Montgomery county, the juries are composed exclusively of persons of the white race, although the colored people are largely in the majority in said county, and that all colored persons are excluded from service on any juries in any of the State courts of said county for no other reason than their race and color, although otherwise qualified, and have been so excluded for a great many years; and affiant is informed and believes that negroes are likewise excluded from jury service in all the State courts throughout the State of Alabama.

JAMES L. JETER.

Sworn to and subscribed before me this 24th day of June 1902.

J. A. ELMORE,
*U. S. Commissioner.*

*Affidavit No. 5.*

STATE OF ALABAMA, }
*Montgomery County.* }

Before me, the undersigned authority, in and for said county, on this day personally appeared Kinchin Harris, who makes affidavit that he is 42 years old, is a person of dark complexion and of African descent known as a negro, and that he was born in the State of Alabama, and has resided in the county of Montgomery 16 years, and the same length of time in precinct No. 4 of said county next before the date he applied for registration as herein set forth; that he has never been convicted of any offence whatever, is a person of good character, and understands the duties and obligations of citizenship under a republican form of government; that heretofore he has enjoyed all the rights and exercised all the privileges of a citizen of the United States and of the State of Alabama, until the 25th day of March, 1902, when he applied to the board of registrars of Montgomery county for registration as an elector of said State,
69 while said board was in session at the court house in the city of Montgomery, and open for the registration of the qualified electors of said county, and complied with all the reasonable rules of said board, and was by them refused and denied registration for no other reason than his race and color and that large numbers of colored persons were refused and denied registration at the same time, and since, for no other reason than their race and color, although possessing all the legal and necessary qualifications, and the said board required affiant to furnish the testimony of two white persons as to his qualifications and character, and refused to accept the testimony of any colored person, while all white men were registered upon their application without any evidence or proof of qualifications except the oath of the applicant, and all colored persons were required to produce two white persons to testify to their qualifications and character; and that large numbers of negroes were thus denied and refused registration, the number of whom in Montgomery county alone, he estimates at five thousand; affiant says that the juries in the trial courts of Montgomery county are composed exclusively of persons of the white race, although the colored people are in the majority in said county, and that all colored persons are excluded from service on any of the juries in the State courts of said county for no other reason than their race and color, although otherwise qualified, and have been so excluded for a great many years; and affiant is informed and believes, that all negroes are likewise excluded from jury service in all the State courts throughout the State of Alabama.

KINCHIN HARRIS.

Sworn to and subscribed before me this 24th day of June 1902.

[SEAL.]

J. A. ELMORE,
*U. S. Commissioner.*

*Affidavit No. 6.*

STATE OF ALABAMA, }
*Montgomery County.* }

Before me the undersigned authority, in and for said county, on this day personally appeared Nelson Bibb, who makes affi-
70 davit that he is 64 years of age, and is a person of dark complexion and of African descent known as a negro, that he was born in the State of Alabama, and has lived therein all his life, that he has resided in the county of Montgomery and in precinct No. 2 of the same, for more than ten years next before the time when he applied for registration as herein set forth; that he has never been convicted of any offense whatever, is of good character, and understands the duties and obligations of citizenship under a republican form of government; that heretofore, he has enjoyed all the rights and exercised all the privileges of a citizen of the United States and of the State of Alabama, until the 9th day of April, 1902, when he applied to the board of registrars of Montgomery county while they were in session at the court house open for the registration of the qualified electors of said county, for registration as an elector of said State and complied with all the reasonable rules of said board, and was by them refused and denied registration for no other reason than his race and color; and said board required affiant to furnish the testimony of two white persons as to his qualifications and character, and refused to accept the testimony of any colored person, while all white men applying to said board for registration were registered upon their affidavit of qualification without further evidence; that all colored persons were required to produce the testimony of two white persons, which is not an easy thing to do owing to the race prejudice existing against the colored race in the State of Alabama upon matters connected with politics; that large numbers of colored persons were denied and refused registration solely on the ground of their race and color, the number of whom he estimates at about 5,000. Affiant says that the juries in the trial courts of the county of Montgomery are composed exclusively of persons of the white race, although the colored people largely outnumber the whites in said county, and all colored persons are excluded from service on the juries in any of the State courts of said county, on account of their race and color, although otherwise qualified and have been so excluded for a great many years; and that affiant is informed and believes that all negroes are likewise excluded from jury service in all the State courts throughout the State of Alabama.

71

NELSON BIBB.

Sworn to and subscribed before me this 24th day of June, 1902.

J. A. ELMORE,
*U. S. Commissioner.*

[SEAL.]

*Affidavit No. 7.*

STATE OF ALABAMA, }
*Montgomery County.* }

Before me, the undersigned authority, in and for said county, on this day personally appeared Edward M. Dale, who makes affidavit that he is 44 years of age, is a person of dark complexion, and of African descent known as a negro; that he is employed as a clerk in the U. S. post office in the city of Montgomery, that he was born in the State of Alabama, and has lived therein all his life, that he is a resident of Montgomery county, and has been such resident more than 30 years, and has presided in precinct No. 4 of said county for more than four years next before the time he applied for registration as herein set forth; that he has never been convicted of any offense whatever, is a person of good character, and understands the duties and obligations of citizenship under a republican form of government; that heretofore, he has enjoyed all the rights and exercised all the privileges of a citizen of the United States and of the State of Alabama, until the 10th day of April, 1902, when he applied to the board of registrars of Montgomery county for registration as an elector of said State, while said board was in session at the court house in the city of Montgomery, and open for the registration of the qualified electors of said county, and complied with all the reasonable requirements of said board, and was by them refused and denied registration, for no other reason than his race and color; and said board required affiant to furnish the testimony of two white persons to testify to his character, and refused to accept the testimony of any colored person, while all white men applying for registration were registered upon their affidavit of qualifications without further evidence, but all colored persons were required to produce two white persons to testify to their qualifications and character; that large numbers of colored persons were refused and denied registration solely on the ground
72 of their race and color; that he estimates the number of negroes disfranchised by the action of said board at about 5,000; affiant says that the juries in the trial courts of Montgomery county are composed exclusively of persons of the white race, although the colored people are in the majority in said county, and that all colored persons are excluded from service on the juries in any of the State courts in said county, on account of their race and color, although otherwise qualified, and have been so excluded for a great many years; and that affiant is informed and believes that all negroes are likewise excluded from jury service in all the State courts throughout the State of Alabama.

E. M. DALE.

Sworn to and subscribed before me this 25th day of June, 1902.

[SEAL.] J. A. ELMORE,
*U. S. Commissioner.*

*Affidavit No. 8.*

STATE OF ALABAMA, }
*Montgomery County.* }

Before me, the undersigned authority, in and for said county, on this day personally appeared Derry Fonville, who makes affidavit that he is about 58 years old and is a person of dark complexion and of African descent known as a negro, that he was born in the State of South Carolina, and has lived in the State of Alabama since about 1853; that he has resided in the county of Montgomery and in ward 5 of the city of Montgomery about 14 years next before the time he applied for registration as herein set forth; that he has never been convicted of any offence whatever, is a person of good character, and understands the duties and obligations of citizenship under a republican form of government; that he honorably served in the land forces of the United States, in the late war between the States known as the Civil War, in Company H of the 82nd regiment U. S. C. V. I. and that he is a pensioner under the laws of the United States, and is enrolled as such at the Knoxville
73 agency of the U. S. Pension Office; that heretofore, he has exercised all the privileges, and enjoyed all the rights of a citizen of the United States and of the State of Alabama until about the 7th May 1902, when he applied to the board of registrars of Montgomery county, for registration as an elector of the State of Alabama while said board was in session at the court house in the city of Montgomery, open for the registration of qualified electors of said county, and complied with the law, and all the reasonable requirements of said board and was by them refused and denied registration for no other reason than his race and color; and that he exhibited to said board his pension voucher and certificate showing that he was a pensioner under the laws of the United States, and had honorably served in the land forces of the United States, and that said board still denied and refused to register him, and was told by them to furnish the testimony of two white men as to his character and qualifications, and said board refused to accept the testimony of any colored person, and that thereupon affiant procured the testimony of two of the best white men in Montgomery county who testified and swore to his character and qualifications as an elector, but that said board still refused and denied him registration for no other reason than his race and color, and at the same time refused large numbers of negroes solely on the grounds of their race and color, while all white men were registered upon their application without any further proof than their oath of application, but all negroes were compelled to produce the testimony of two white men, affiant further says that he owns and pays taxes on five hundred

dollars' worth of real estate in the county of Montgomery, which is assessed at five hundred dollars; affiant further says that the juries in the trial courts of Montgomery county are composed exclusively of white men, and that all negroes are excluded from jury service solely on the ground of their race and color, although otherwise qualified for such service, and although the colored people are in the majority in said county, and have been so excluded for a great many years.

74 DERRY FONVILLE.

Sworn to and subscribed before me this 28th day of June, 1902.

J. A. ELMORE,
[SEAL.] *U. S. Commissioner.*

*Affidavit No. 9.*

STATE OF ALABAMA, }
*Bullock County.* }

Before me, the undersigned authority, in and for said county, on this day personally appeared Cain Rogers, who makes affidavit that he is 70 years of age, and is a person of dark complexion and of African descent known as a negro, that he was born in the State of Georgia, and has lived in the State of Alabama for 50 years; that he has resided in said Bullock county 30 years, and in precinct No. 3 of said county 30 years, next before the time when he applied for registration as hereinafter set forth; that he has never been convicted of any offense whatever, is a person of good character, and understands the duties and obligations of citizenship under a republican form of government; that heretofore he has enjoyed all the rights and exercised all the privileges of a citizen of the United States and of the State of Alabama until the 24th day of April 1902, when he applied to the board of registrars of said county for registration as an elector of said State while said board were in session at Union Springs, in said county, open for registration of the qualified electors of said precinct and county, and complied with all the reasonable rules of said board, and was by them refused and denied registration for no other reason than his race and color, and large numbers of his race were refused registration for the same reason, while all white men applying to said board were registered.

CAIN ROGERS.

Sworn to and subscribed before me this 24th day of June 1902.

H. P. CHAPPELL, *J. P.*

75 To the clerk of the city court of Montgomery:

Let alternative writ of mandamus issue as prayed in the foregoing petition returnable and triable on the 13th day of October 1902.

Done this 1st day of July, 1902.

A. D. SAYRE,
*Judge of the City Court of Montgomery.*

We hereby accept service of the within application for the writ of mandamus and waive copy of same.

W. A. GUNTER.
CHAS. B. TEASLEY.
E. J. HARRIS.

July 7, 1902.

Filed in office July 1st, 1902.
H. H. MATTHEWS, *Clerk.*

In the City Court of Montgomery.

JACKSON W. GILES
*vs.*
C. B. TEASLEY, W. A. GUNTER, and E. J. Harris, Board of Registrars of Montgomery County, Alabama. } Petition for Mandamus.

And now comes said respondents by their attorney Charles G. Brown and move the court to quash the said petition and the order of Hon. A. D. Sayre, judge of said court, on the ground stated in his motion to strike from the files said petition.

CHARLES G. BROWN,
*Attorney for Respondents.*

Filed in office 13th day of Oct., 1902.
H. H. MATTHEWS, *Clerk.*

City Court of Montgomery.

JACKSON W. GILES
*vs.*
C. B. TEASLEY, W. A. GUNTER, and E. J. Harris, Board of Registrars of Montgomery County, Alabama. } Petition for a Mandamus.

Come the said respondents by their attorney Charles G. Brown, and show unto the court that no alternative writ of mandamus as ordered by the Hon. A. D. Sayre, judge of said court, has been served on them, or any of them, nor have they, or any of them, waived the issuance and service on them, or any other of them of said alternative writ; therefore they say that they should not be required now to further answer in the premises.

76

CHARLES G. BROWN,
*Attorney for Respondents.*

In the City Court of Montgomery.

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| JACKSON W. GILES<br>*vs.*<br>C. B. TEASLEY, W. A. GUNTER, and E. J. Harris, Board of Registrars of Montgomery County, Alabama. | Petition for Mandamus. |

And now comes the said defendant- by their attorney Charles G. Brown and move the court to strike said petition from the files, because the same purports to be a petition addressed to Hon. A. D. Sayre, judge of the city court of Montgomery for the issuance of a writ of mandamus to be directed to the respondents, as board of registrars, commanding them to register said petitioner as a qualified voter under the suffrage provisions of the revised constitution of the State of Alabama; and for ground of said motion state the following That said petition is filed in the name of Jackson W. Giles, and not in the name of the State of Alabama upon the relation of said Jackson W. Giles.

CHARLES G. BROWN,
*Attorney for Respondents.*

Filed in office this 13th day of October, 1902.
H. MATTHEWS,
*Clerk of City Court of Montgomery.*

In the City Court of Montgomery.

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| JACKSON W. GILES<br>*vs.*<br>C. B. TEASLEY, W. A. GUNTER, and E. J. Harris, Board of Registrars of Montgomery County, Alabama. | Petition for Mandamus. |

And now comes the said C. B. Teasley, W. A. Gunter, and E. J. Harris by their attorney Charles G. Brown and defends the wrong and injury when etc., and says that the said petition and the matters and things therein contained in manner and form as in said petition stated and set forth are not sufficient in law for the said Jackson W. Giles to have, or maintain his aforesaid action against them, and that they are not bound by law to answer the same—and the said C. B. Teasley, W. A. Gunter and E. J. Harris state and show to the court the following cause of demurrer
77 to the said petition—that is to say:

1st. Said petition prays the court for a peremptory writ of mandamus to be issued directed to said respondents commanding them as such board of registrars to register the said Jackson W. Giles as a qualified voter under the suffrage provisions of the con-

stitution of said State on the 3rd day of September, 1901, and which went into effect on the 28th day of November, 1901, and said petition avers that the said suffrage provisions of said constitution are unconstitutional and void.

2nd. Because said petition alleges and avers that the said suffrage provisions of said constitution fixing the qualifications for registration as an elector, and specially the qualifications as such elector having the right to vote at the general election to be held under said constitution in said State on the first Tuesday after the 1st Monday in November, 1902, are unconstitutional and void and violative of the XIII and XIV amendments of the Constitution of the United States, and yet said petition prays for a peremptory mandamus to said respondents as such board of registers to register him under said provisions as such a qualified voter.

3rd. By averring that the said suffrage provisions of said constitution *and* unconstitutional, null and void as aforesaid, petitioner is estopped to demand that this court issue a peremptory mandamus to said respondents to register him as such an elector under said suffrage provisions.

4th. Because by averring that paragraph, or section 180, and the several subdivisions thereof are unconstitutional, null and void, and that paragraph or section 181 which provides for the appointment and the fixing and defining of the powers and duties of said board of registrars, and especially that the first and second sub-divisions thereunder are unconstitutional, null and void, the petitioner cannot demand that this court issue a peremptory mandamus to these respondents commanding them to perform an unconstitutional and illegal and invalid act.

5th. Because the averments of his petition are inconsistent with and antagonistic to the relief prayed for in and by the petition.

78 6th. Becau-e the relief prayed for should not be granted under the averments of his petition.

7th. That the prayer for relief is inconsistent and antagonistic in this that he prays that the court shall declare said suffrage provision unconstitutional, null and void, that said paragraph and sub-divisions thereunder as aforesaid are likewise unconstitutional, null and void, and yet also prays that this court issue a peremptory mandamus to said respondents to perform an unconstitutional, illegal and invalid act, and one which they have no right and authority to do and one that would violate the XIII and XIV amendments to the Constitution of the United States.

8th. Because petitioner has a plain and adequate remedy at law.

9th. Because petitioner has a plain and adequate constitutional and statutory remedy at law.

10th. Because the petitioner at and before the time of the filing of his petition had a plain and adequate constitutional and statutory remedy at law.

11th. Under the frame and averments of his petition the peti-

tioner has no right to pray for relief for all members of his race qualified as in said petition averred.

12th. Because said respondents as such board of registrars have no authority in law, or fact, to register all qualified members of his race under the constitution and laws of the State of Alabama existing prior to the adoption of said secs. 180, 181, 183, 185, 187 and 188 of article VIII of the new constitution of Alabama.

13th. The petitioner claims and demands that he be registered by the said board of registrars under the suffrage provisions of said constitution, and yet avers therein that said constitutional provisions are unconstitutional and void.

14th. The petitioner claiming and demanding a right under the suffrage provisions of said constitution is estopped to assert the unconstitutionality and invalidity of said provision.

15th. That the petition asks for a mandamus to require judicial action in a particular manner and not merely to consider and
79 act on the application of the petitioner and to grant or refuse it.

16th. That the petition asks for a different remedy than that given by the constitutional provision for improperly refusing registration—which remedy being specific for a new and specific right must be followed and is exclusive of all other remedies.

CHARLES G. BROWN,
*Attorney for Respondents.*

Filed in office this 13th day of October 1902.

H. H. MATTHEWS,
*Clerk of City Court of Montgomery.*

MONDAY, *October 13th, A. D.* 1902.

The court met pursuant to adjournment.
Present: Hon. A. D. Sayre, judge presiding.

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| JACKSON W. GILES *vs.* CHAS. B. TEASLEY, W. A. GUNTER, JR., and E. Jeff Harris, Board of Registrars of Montgomery County, Alabama. | # 2135. | Mandamus. |

This day came the parties by their attorneys, and by leave of the court the respondents withdraw their motion to quash proceedings because of lack of service, and their motion to strike and quash petition because the said petition is not filed in the name of the State of Alabama, and the respondents demurrer to the petition being argued by counsel and understood by the court, it is considered and ordered by the court and it is the judgment of the court, that the said demurrer to the petition be and same is hereby sus tained. And the petitioner failing to amend his petition, it is considered and ordered by the court and it is the judgment of the court

that the said petition be and the same is hereby dismissed. It is further considered and ordered by the court that the respondents go hence and recover of the petitioner the costs in this behalf expended, for which let execution issue.

80 THE STATE OF ALABAMA, }
*Montgomery County.* }

In the City Court of Montgomery.

JACKSON W. GILES, Plaintiff,
*vs.*
CHAS. B. TEASLEY, WM. A. GUNTER, Jr., and E. Jeff Harris, Board of Registrars of Montgomery County, Alabama, Defendants.
} Application for Writ of Mandamus to Compel Registration of Applicant.

Judgment was rendered in the above entitled cause, in favor of said defendants, sustaining their demurrer and dismissing the application of the petitioner, on the 13th day of October, 1902, from which judgment the said plaintiff or applicant has prayed an appeal to the supreme court of the State of Alabama.

Now therefore know all men by these presents, that we Jackson W. Giles, A. S. Watkins, John Phillips and Reuben E. Lee acknowledge ourselves security for all the costs of the said appeal taken to the supreme court by the said Jackson W. Giles from the said judgment in said cause.

Witness our signatures, this 18th day of October, 1902.

JACKSON W. GILES.
A. S. WATKINS.
JOHN PHILLIPS.
REUBEN LEE.

Approved this 25th day of October, 1902.
H. H. MATTHEWS,
*Clerk City Court of Montgomery.*

Filed in office this 25th day of October, 1902.
H. H. MATTHEWS,
*Clerk City Court of Montgomery.*

81 *Notice of Writ of Error.*

THE STATE OF ALABAMA, }
*Montgomery County.* }

To any sheriff of the State of Alabama, Greeting:

You are hereby commanded to summon Chas. G. Brown, attorney of record of Chas. B. Teasley, Wm. A. Gunter, Jr., and E. J.

Harris, board of registrars of Montgomery county, Alabama, to appear at the next term of the supreme court of said State, then and there to defend an appeal which Jackson W. Giles has this day sued out, returnable to said court to reverse a judgment from Cgas. B. Teasley, W. A. Gunter, Jr., and E. J. Harris, board of registrars of Montgomery county, Alabama at the Oct. term, 1902, of the city court of Montgomery recovered against Jackson W. Giles, and make immediate return of this writ, &c.

Witness, Henry H. Matthews, clerk of said city court, this 25th day of October, A. D. 1902.

H. H. MATTHEWS,
*Clerk of the City Court of Montgomery.*

Received in office Oct. 25th 1902.

W. R. WALLER, *Sheriff.*

Executed by serving a copy of the within on Chas. G. Brown, att'y of record, this Oct. 29th, 1902.

W. R. WALLER, *Sheriff.*
G. M. POWELL, *D. S.*

THE STATE OF ALABAMA, }
*Montgomery County.* }

I, Henry H. Matthews, clerk of the city court of Montgomery, in and for said county and State, do hereby certify that the foregoing pages numbered from 1 to 72 inclusive contain a full, true and correct transcript of the record and proceedings of said court in a certain cause lately therein pending, wherein Jackson W. Giles was petitioner and Charles B. Teasley, W. A. Gunter Jr., and E. J. Harris, board of registrars of Montgomery county, Alabama, were respondents.

And I further certify that the said petitioner Jackson W. Giles did on the 18th day of October, 1902, pray for and obtain an appeal from the judgment of the said city court of Montgomery to the present term of the supreme court of Alabama, upon en-
82 tering into bond for the costs of said appeal, *which* Jackson W. Giles, A. S. Watkins, John Phillips and Reuben E. Lee as sureties thereon, which said bond has been approved by me.

Witness my hand this the 2nd day of December, 1902.

H. H. MATTHEWS,
*Clerk of the City Court of Montgomery.*

83 In the Supreme Court of the State of Alabama.

JACKSON W. GILES, Appellant,
*vs.*
CHAS. B. TEASLEY ET AL., Board of Registrars of Montgomery County, Alabama, Appeller. } Assignments of Error.

And now comes the appellant by his attorney and assigns the following errors in the rulings and proceedings as of the court below, from which this appeal is taken upon which he relies for reversal in this court, to-wit:

*First Assignment of Error.*

Because the court erred in sustaining the demurrer and dismissing the petition, when the allegations of the petition showed that section- 180, 181, 183, 184, 185, 186, 187, 188 of article 8 of the constitution of Alabama were repugnant to the 14th and 15th amendments to the Constitution of the United States, in that they were designed and intended to deprive petitioner and the negroes of Alabama of their right to vote, on account of their race and color and previous condition of servitude without depriving a single white man in the State of Alabama of his right to vote.

*Second Assignment of Error.*

Because the court erred in sustaining the demurrer and dismissing the petition when the petition alleged that section 180, of article 8, of the new constitution of Alabama was repugnant to the 14th and 15th amendments to the Constitution of the United States, in that subdivision- 1 & 2 of said section did not contain such a statement of qualification- for suffrage as are applicable to and attainable by, all alike, regardless *to* race and color; and that said subdivisions in effect deprive the petitioner and the negroes of Alabama of the right to vote, on account of their race and color and previous condition of servitude; and that subdivision three of *of* said section is equally repugnant to the said amend-
84 ments to the Constitution of the United States, because it is unreasonable too general, and invests the registrars with absolute and arbitrary power, and in effect denies the petitioner the right to vote because of his race and color.

*Third Assignment of Error.*

Because the court erred in sustaining the demurrer dismissing the petition, when the same alleged that section- 181, 183, 184,

185, 187, and 188, of article 8 of the new constitution of Alabama were designed and especially intended to apply to the petitioner and the negroes of Alabama, and were not intended to operate against or effect any white person in said State, because all the white men in Alabama were allowed to qualify under section 180, while the negroes were refused qualification under that section and were thus forced to wait until section 181, and kindred sections went into operation; and were part of one entire scheme on the part of the party in power and dominant race in the State of Alabama to deny petitioner and the negroes of Alabama the right to vote on account of their race and color.

*Fourth Assignment of Error.*

Because the court erred in sustaining the demurrer and dismissing the petition, when the same alleged that section 186 of article 8 of the constitution of Alabama, was in contravention of the 14th and 15th amendments to the Constitution of the United States, in that the board of registrars composed entirely of partisan white men were given absolute power, and the discretion of a court for the purpose of more effectually depriving petitioner and his race of the right to vote on account of their race and color, and that the pretended right of appeal to the circuit court was given for the same purpose, because the juries of Alabama are composed exclusively of white men, negroes being excluded from service on any of the juries of the trial courts of Alabama, on account of their race and color, although otherwise qualified for jury service; and
85 have been so excluded for a great many years so that an appeal from the decision of the registrars would result in the same discrimination and race prejudice.

*Fifth Assignment of Error.*

Because the court erred in sustaining the demurrer and dismissing the petition when the same alleged facts showing that the appellees who were charged with the administration and enforcement of said suffrage provisions of said constitution, refused to register petitioner and large numbers of his race for no other reason than their race and color, when they were otherwise qualified under the law, and required them to produce the testimony of white men as to their qualifications and refused to accept the testimony of colored men, while all white men applying for registration were registered and were not required to produce any evidence except the affidavit of the applicant.

WILFORD H. SMITH,
*Att'y for Appellant.*

(Minutes Supreme Court, vol. 54, p. 52.)

SUPREME COURT, TUESDAY, *Dec.* 16, 1902.

The court met pursuant to adjournment.
Present: All the justices.

Montgomery City Court.

JACKSON W. GILES
*v.*
CHAS. B. TEASLEY ET ALS., Board of Registrars, &c. } 2 Div. 369.

Come the parties by attorneys, and submit this cause on briefs for decision.

And the court adjourned until Wednesday December 17th 1902 at 10 o'clock a. m.

(Minutes, 54, p. 160.)

SUPREME COURT, SATURDAY, *February 28th*, 1903.

The court met pursuant to adjournment.
Present: All the justices.

Montgomery City Court.

JACKSON W. GILES
*v.*
CHAS. B. TEASLEY ET ALS., Board of Registrars, &c. } 3 Div. 369.

Come the parties by attorneys, and the record and matters therein assigned for errors, being submitted on briefs and duly examined and understood by the court, it is considered that in the record and proceedings of the city court there is no error. It is therefore considered that the judgment of the city court be in all things affirmed. It is also considered that the appellant, and A. S. Watkins, John Phillips and Reuben E. Lee, sureties on the appeal bond, pay the costs of appeal of this court and of the city court.

And the court adjourned until Monday April 6th 1903 at 10 o'clock a. m.

87 (Supreme Court of Alabama. Filed Feb. 28, 1903. Rob't F. Ligon, Jr., Clerk.)

THE STATE OF ALABAMA, *Judicial Department.*

The Supreme Court of Alabama, November Term, 1902.

JACKSON W. GILES
*v.*
CHAS. B. TEASLEY ET AL., Board of Registrars, etc. } 3 Div. 369.

Appeal from Montgomery city court.

TYSON, *J.:*

The petition in this case is for a writ of *mandamus* to compel the board of registrars for Montgomery county to register the petitioner as an elector. It alleges that sections 180, 181, 183, 184, 185, 186, 187 and 188 of art. VIII of the constitution of 1901 fixing the qualification of electors and prescribing the mode of registration are unconstitutional because violative of the 14th and 15th amendments of the Constitution of the United States. The prayer is in substance that these sections of the constitution above enumerated be declared null and void and that an alternative writ of *mandamus* issue to the board of registrars commanding them to re*h*ister as a qualified elector of the State of Alabama, upon the books provided therefor, the name of petitioner and to issue to him a certificate of the fact in disregard of said sections of the constitution etc. etc.

As these sections of the constitution assailed created the board of registrars, fixed their tenure of office, defined and prescribed
88 their duties, if they are stricken down on account of being unconstitutional, it is entirely clear that the board would have no existence and no duties to perform. So then taking the case as made by the petition, without deciding the constitutional question attempted to be raised or intimating anything as to the correctness of the contention on that question, there would be no board to perform the duty sought to be compelled by the writ and no duty imposed of which the petitioner can avail himself in this proceeding, to say nothing of his right to be registered.

Affirmed.

89 THE STATE OF ALABAMA, }
*Judicial Department.* }

The Supreme Court of Alabama, November Term, 1902.

JACKSON W. GILES
*v.*
CHAS. B. TEASLEY ET AL., Board of Registrars, &c. } 3 Div. 369.

Appeal from Montgomery city court.

THE STATE OF ALABAMA, }
*City and County of Montgomery.* }

I, Robert F. Ligon, clerk of the supreme court of Alabama, do hereby certify that the foregoing pages numbered from 1 to 85 and lettered from "*a*" to "*e*," inclusive, contain a full, true, and correct copy of the record, minute and judgment entries, and of the opinion, of said supreme court in the above stated cause, as the same appear and remain of record and on file in this office.

I further certify that, application for writ of error in said cause having been made, the said application was denied, and is endorsed as follows:

"The writ of error sought in the foregoing application is denied for that no Federal question was involved in the decision of the case, or decided.—This, May 15, 1903.—Thos. N. McClellan, chief justice, supreme court of Alabama."

Witness, Robert F. Ligon, clerk of the supreme court of Alabama, at the capitol, this, the 15 day of May A. D. 1903.

[Seal of the Supreme Court of Alabama.]

ROBERT F. LIGON,
*Clerk of the Supreme Court of Alabama.*

90 *Know all men by these presents*, that we, Jackson W. Giles as principal, and Nathan Alexander and Alexander J. Rodgers, as sureties, are held and firmly bound unto Charles B. Teasley, William A. Gunter Jr. and E. Jeff Harris, board of registrars of Montgomery county Alabama in the full and just sum of two hundred and fifty dollars to be paid to the said Teasley, Gunter and Harris, board of registrars aforesaid, their certain attorney, executors, administrators, or assigns: to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 25th day of May, in the year of our Lord one thousand nine hundred and three.

Whereas, lately at a term of the supreme court of the State of Alabama, in a suit depending in said court, between Jackson W. Giles and Charles B. Teasley, William A. Gunter, Jr. and E. Jeff Harris, board of registrars of Montgomery county Alabama, in an applica-

tion for a writ of mandamus, a judgment was rendered against the said Jackson W. Giles and the said Giles having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Charles B. Teasley, Wm. A. Gunter Jr. and E. Jeff Harris, board of registrars of Montgomery county Alabama citing and admonishing them to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date thereof.

Now, *the condition of the above obligation is such*, that if the said Jackson W. Giles shall prosecute his writ of error to effect, and answer all costs of he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

JACKSON W. GILES. [SEAL.]
NATHAN H. ALEXANDER. [SEAL.]
ALEXANDER J. RODGERS. [SEAL.]

Sealed and delivered in presence of—
J. A. ELMORE.

Approved by—
EDWARD D. WHITE,
*Associate Justice of the Supreme Court of the United States.*

91 STATE OF ALABAMA, }
*Montgomery County.* }

Nathan H. Alexander whose name is signed to the foregoing bond as one of the sureties therein, being duly sworn deposes and says:—I reside in the city of Montgomery in said county and State, and am a free-holder therein, and am worth the sum of two hundred and fifty ($250.00) dollars over and above all property exempt from sale on execution.

NATHAN H. ALEXANDER.

Sworn to and subscribed before me this 25 day of May 1903.

{Seal of John A. Elmore, Middle District of Alabama, U. S. Commissioner.}

J. A. ELMORE,
*U. S. Com'r.*

STATE OF ALABAMA, }
*Montgomery County.* }

Alexander J. Rodgers whose name is signed to the foregoing bond as one of the sureties therein, being duly sworn deposes and says:—I reside in the city of Montgomery in said county and State, and am a free-holder therein, and am worth the sum of two hundred and fifty ($250.00) dollars over and above all property exempt from sale on execution.

ALEXANDER J. RODGERS.

Sworn to and subscribed before me this 25 day of May 1903.

{ Seal of John A. Elmore, Middle District of Alabama, U. S. Commissioner. }

J. A. ELMORE,
*U. S. Com'r.*

On this 25 day of May, 1903, in the city and county of Montgomery, State of Alabama, before me personally appeared Nathan H. Alexander and Alexander J. Rodgers both of whom are known to me to be the *to be the* individuals described in and who signed the foregoing bond as sureties therein, and then and there each of them severally acknowledged that he executed the foregoing bond.

Witness my signature this day and date first above written.

{ Seal of John A. Elmore, Middle District of Alabama, U. S. Commissioner. }

J. A. ELMORE,
*U. A. Com'r.*

91½ I, Thomas G. Jones, judge of the United States district court, for the district of Alabama, hereby certify that Nathan H. Alexander and Alex. J. Rodgers whose names are signed as sureties to the foregoing bond, are known to me and are free holders in Montgomery county, and I consider each of them worth over five hundred ($500.00) dollars in property subject to execution, and would approve the foregoing bond with them as sureties if the same was submitted to me.

Witness my signature this 26th day of May 1903.

THOS. G. JONES.

92 Supreme Court of the State of Alabama.

JACKSON W. GILES, Plaintiff in Error,
*vs.*
CHARLES B. TEASLEY, WILLIAM A. Gunter, E. Jeff Harris, Board of Registrars, Montgomery County, Alabama, Defendants in Error. } Application for Mandamus.

And now comes the said plaintiff in error by his attorney and makes the following assignments of error in the judgment and proceedings of this court, upon which he relies and expects to obtain a reversal in the Supreme Court of the United States, to wit:—

*First Assignment of Error.*

Because the supreme court of Alabama erred, in refusing to decide that the suffrage provisions of the constitution of Alabama were repugnant to the 14th and 15th amendments to the Constitution of

the United States, in the purpose for which they were framed and enacted; they being framed and enacted for the avowed purpose of disfranchising the negroes of Alabama, without disfranchising a single white man.

*Second Assignment of Error.*

93 The supreme court of Alabama erred in refusing to decide that the suffrage provisions of the constitution of Alabama were repugnant to the 14th and 15th amendments to the Constitution of the United States, in their language and meaning; they being so artfully framed that white men alone can become electors in the State of Alabama, and negroes can be excluded, and were excluded on account of their race and color and previous condition of servitude, except in such cases as happened to suit the arbitrary whims of the board of registrars.

*Third Assignment of Error.*

The supreme court of Alabama erred in refusing to decide that the suffrage provisions of the constitution of Alabama were made unconstitutional and void by the manner of their administration by the defendants in error, and all other boards in the State, in that they admitted all white men applying for registration to be registered as electors, and denied registration practically to all negroes, for no other reason than their race and color.

*Fourth Assignment of Error.*

The supreme court of Alabama erred in refusing to reverse the judgment of the city court of Montgomery, wherein the prayer of the plaintiff in error for a writ of mandamus was denied and his application dismissed on demurrer.

Wherefore the plaintiff in error prays that the judgment of the supreme court of Alabama affirming the judgment of the city
94 court of Montgomery, be reversed in the Supreme Court of the United States.

WILFORD H. SMITH,
*Attorney for Plaintiff in Error.*

95 JACKSON W. GILES
*vs.*
CHARLES B. TEASLEY, WILLIAM A. GUNTER, Junior, and E. Jeff Harris, Board of Registrars of Montgomery County, Alabama. } Application for Writ of Mandamus.

To the Honorable E. D. White, one of the justices of the Supreme Court of the United States:

Your petitioner, Jackson W. Giles, a citizen of the United States and of the State of Alabama respectfully petitions and shows:—

First. That a final judgment of the supreme court of Alabama, the highest court of the State of Alabama, in which a decision could be had, has been rendered against him in a suit where was drawn in question the validity of the suffrage provisions of the constitution of Alabama, and the authority of said defendant board of registrars, acting thereunder, on the ground that said suffrage provisions of the constitution of Alabama, were repugnant to the 14th and 15th amendments to the Constitution of the United States, and the decision of the said supreme court of Alabama in effect was in favor of the validity of the suffrage provisions of the constitution of Alabama, and the authority exercised under them by said defendant board, as will more clearly appear by the certified copy of the record in said case, from the said supreme court of Alabama, submitted with this petition.

96 Second. That your petitioner being of African descent, and of black complexion known as a negro, and a citizen of the United States, and having theretofore been an elector under the laws of the State of Alabama, was on the 13th day of March, 1902, refused registration, and was not allowed to qualify as an elector in the State of Alabama, for no other reason than his race and color, by said board, who were acting under and by authority of the suffrage provisions of the constitution of Alabama, which went into effect November 28th, 1901.

Third. Thereupon petitioner applied to the Honorable A. D. Sayre, judge of the city court of Montgomery, for a writ of mandamus to compel said board of registrars to allow him to qualify as an elector in the State of Alabama, and alleged in his petition the fact that he had been refused registration because of his race and color, and that more than seventy five thousand (75,000) of his race had been refused in said State for the same reason, also that the suffrage provisions under which said board were acting, were framed for the purpose of allowing only white men to become electors in the State of Alabama, and that by their language and meaning only white men could become electors in the State of Alabama, and negroes were thereby excluded, for no other reason than their race and color, in contravention of the 14th and 15th amendments to the Constitution of the United States.

Fourth. That a demurrer to said petition was sustained in
97 the city court of Montgomery, from which an appeal was taken to the supreme court of Alabama, and in that court the judgment of the lower court was affirmed, as will more fully appear by the record herewith submitted.

Fifth. Because manifest injustice has been done petitioner, in the judgment and proceedings in said case and the denial of the rights claimed by him under the 14th and 15th amendments to the Constitution of the United States.

Wherefore he prays for the allowance of a writ of error, and such other process as may cause said judgment to be corrected by the Supreme Court of the United States; as in duty bound he will ever pray.

WILFORD H. SMITH,
*Attorney for Jackson W. Giles.*

98 (Original.)

UNITED STATES OF AMERICA, *ss:*

To Charles B. Teasley, William A. Gunter, Jr., and E. Jeff Harris, as the board of registrars of Montgomery county, Alabama, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error, filed in the clerk's office of the supreme court of the State of Alabama, wherein Jackson W. Giles is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Edward D. White, associate justice of the Supreme Court of the United States, this twenty-ninth day of May, in the year of our Lord one thousand nine hundred and three.

EDWARD D. WHITE,
*Associate Justice of the Supreme Court of the United States.*

99 We hereby as attorneys of the within named defendants in error accept service of this citation & waive further service.
June 20, 1903.

GUNTER & GUNTER, *Att'ys.*

100 UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the honorable the judges of the supreme court of the State of Alabama, Greeting:

Because in the record and proceedings, as also in the rendition of he judgment of a plea which is in the said supreme court before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Jackson W. Giles, appellant, and Charles B. Teasley, William A. Gunter, Jr., and E. Jeff Harris, as the board of registrars of Montgomery county, Alabama, appellees, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the con-
101 struction of a clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission; a manifest error hath happened, to the great damage of the said appellant as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the twenty ninth day of May, in the year of our Lord one thousand nine hundred and three.

JAMES H. McKENNEY,
*Clerk of the Supreme Court of the United States.*

Allowed by

EDWARD D. WHITE,
*Associate Justice of the Supreme Court of the United States.*

102 THE STATE OF ALABAMA, }
*Judicial Department.* }

The Supreme Court of Alabama, November Term, 1902.

JACKSON W. GILES
*v.*
CHAS. B. TEASLEY ET AL., Board of Registrars, &c. } 3 Div. 369.

Appeal from Montgomery city court.

THE STATE OF ALABAMA, }
*City and County of Montgomery.* }

I, Robert F. Ligon, clerk of the supreme court of Alabama, do hereby certify that the foregoing pages numbered from 1 to 85 and lettered from "*a*" to "*h*," inclusive, contain a full, true, and correct copy of the record, minute and judgment entries, and of the opinion, of said supreme court in the above stated cause, and of the appeal bond by the plaintiff in error, as the same appear and remain of record and on file in this court.

I further certify that, application for writ of error in said cause having been made to the supreme court of Alabama, the said application was denied, and is endorsed as follows:

"The writ of error sought in the foregoing application is denied for that no Federal question was involved in the decision of the case, or decided.—This May 15, 1903.—Thos. N. McClellan, chief justice supreme court of Alabama."

I further certify that the petitition for writ of error, the writ of error, the citation and acceptance of service, the assignments of error, the petition for reversal of the judgment of the supreme court of Alabama, are attached.

Witness my hand, and the seal of the supreme court of Alabama, at the capitol, this the 22nd day of June, A. D. 1903.

[Seal of the Supreme Court of Alabama.]

ROBERT F. LIGON,
*Clerk of the Supreme Court of Alabama.*

Endorsed on cover: File No. 18,989. Alabama supreme court. Term No. 338. Jackson W. Giles, plaintiff in error, *vs.* Charles B. Teasley, William A. Gunter, Jr., and E. Jeff Harris, as the board of registrars of Montgomery county, Alabama. Filed June 29, 1903. File No. 18,989.